

# ABSOLUTE Education Pty. Ltd.

## Becoming an Owner-Builder in TAS

### **Quick Start Guide 2013**



**This course booklet is provided as a quick reference tool for owner builders in Tasmania.**

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# 1 Construction Approval Process

## 1.1 Discuss your plans with your neighbours

It is a good idea to discuss your development plans with your neighbours before lodging your plans with your council permit authority. It is important that your neighbours are aware of your plans as you may be able to get some important feedback from them.

Discussing your plans with your neighbours should foster a healthy relationship. It is important to remember that they will be your neighbours for a considerable amount of time. Communicating with your neighbours right from the very start is important as first impressions count and your neighbours can be a useful source of information if anything untoward happens on site. It is also a good idea to keep neighbours up to date with what is happening, particularly if the construction works will create a significant amount of noise or dust.

Your neighbours may be approached for comment on the development by your council and given the opportunity to comment before approval for construction will be given.

## 1.2 Why protect adjoining property?

Building work can sometimes adversely affect adjoining properties. An owner who is proposing building work has obligations under the Building Act 2000 (the Act) to protect adjoining property from potential damage from their work.

If building work is close to or adjacent to adjoining property boundaries, then an owner may be required to carry out protection work in respect of that adjoining property. This is to ensure that the adjoining property is not affected or damaged by the proposed building work.

### **An adjoining property is:**

Adjoining property means land, (including any street, highway, lane, footway, square, alley and right of way), situated in relation to the site on which building work is to occur and is or is likely to be at risk of significant damage from the building work.

A Schedule 3 will determine if this is necessary and if so, before commencing any protection work, the owner of the adjoining property will receive notice of the proposed building work. Form number 6: *Notice to Adjoining Owner (Proposed Building and Protection Work)*, which is available on the [Workplace Standards website](#).

### 1.3 What is protection Work?

Protection work provides protection to adjoining properties from damage due to building work. It includes but is not limited to:

- ❑ Underpinning of adjoining property footings, including vertical support, lateral support, protection against variation in earth pressures, ground anchors, and other means of support for the adjoining property;
- ❑ Shoring up of the adjoining property;
- ❑ Overhead protection for adjoining property;
- ❑ Other work designed to maintain the stability of adjoining property from damage from building work.

**Note 1: Under the building Act the responsibility for determining whether protection work is required rests with the owner-builder.**

### 1.4 How do you know if protection work is required?

When making an application for a building permit for the proposed building work, the applicant (the building owners or agent of owners) is required to provide detailed information about the building work to the building surveyor. The building surveyor will then advise if protection work is required.

### 1.5 What obligations does a property owner have if protection work is required?

#### **Serve Protection Work Notice on adjoining owner**

Owners who are required to carry out protection work in respect of an adjoining property must serve a notice on the adjoining owner and provide details about the proposed protection work. Building work must not be undertaken until the adjoining owner agrees to the protection work or the building surveyor has made a determination on the protection work if there is a disagreement.

- ❑ The adjoining owner must respond to the notice no later than 14 days after the notice has been served. They can agree or disagree to the proposed protection work or require further information to be provided;
- ❑ An adjoining owner who fails to respond to the notice within the required time is deemed to have agreed to the proposed protection work;
- ❑ If the adjoining owner agrees or is deemed to have agreed to the proposed protection work, the owner may proceed to carry out the protection once a notice has been drawn up. The notice is to be in the approved form, include details of the proposed building work as at the date of the notice and include details of the proposed building work setting out the nature and particulars of the protection

work and the proposed program for undertaking the protection of adjoining property work.

Furthermore (Under Section 132), (1) An owner, before carrying out any *protection of adjoining property* work and accompanied by the adjoining owner, is to make a full and adequate survey of the adjoining property and a record of all existing cracks and defects in the adjoining property. The *protection of adjoining property* record is to be signed or otherwise acknowledged as an agreed record of the condition of the adjoining property before the commencement of any *protection of adjoining property* work. The record is admissible in evidence in any proceedings relating to the adjoining property, and evidence of the condition of the adjoining property at the time the record was made.

In the event where the adjoining owner disagrees with the proposed protection work or requests further information, the building surveyor must examine the proposal for protection work and determine whether the building work is appropriate. The building surveyor must give the owner and adjoining owner notice in writing of the determination. A property owner or the adjoining owner may appeal within 14 days to the Resource Management and Planning Appeals Tribunal against the determination.

### **Obtain contract of insurance**

The owner of the property where the building work is to be carried out must ensure that a contract of insurance is in force against potential damage caused by the proposed protection work to the adjoining property.

The insurance policy must protect the adjoining property, occupiers and the general public during the works and for a period of 12 months following completion of the work. A standard Construction and Public Liability policy will not normally provide the minimum cover required. It is strongly advisable to check with your preferred insurer.

The contract for insurance must be with an insurer for an amount agreed between the owner and adjoining owner. A copy of the insurance policy must be provided to the adjoining owner before building work commences.

### **Prepare a survey of adjoining property**

A full and adequate survey of the adjoining property must be prepared by the owner with the adjoining owner. The survey must be a record of all existing cracks and defects. This record must be signed or acknowledged as an agreed record of the condition of the adjoining property before the commencement of any protection work.

Disputes about insurance cover or the adequacy of the survey can be referred to the Resource Management and Planning Appeals Tribunal for a resolution.

### **Pay expenses incurred**

A property owner is required by law to pay expenses necessarily incurred by the adjoining owner in protecting their interests. These costs include specialists' fees to check protection work documentation and expenses relating to the actual supervision of protection work following commencement on-site.

## **1.6 What obligations and rights does an adjoining owner have?**

The Act sets out clearly the rights and responsibilities of the adjoining property owner and/or occupier throughout the process, including response to notices, absent owners, appointment of agents, entry to properties, out of pocket expenses, compensation and liability. Their obligations and rights include the following:

- ❑ Once a Protection Work Notice has been served, the adjoining owner must respond within 14 days of the notice being served;
- ❑ The adjoining owner can agree or disagree to the proposed protection work or require further information to be provided;
- ❑ An adjoining owner who fails to respond to the notice within the required time is deemed to have agreed to the proposed protection work;
- ❑ The adjoining owner must assist the property owner prepare a full and adequate survey of their property before the commencement of the protection work;
- ❑ The adjoining owner has the right to seek reimbursement from the property owner for any reasonable expenses incurred while protecting their interests.

## **1.7 What if a dispute occurs?**

Disputes about any aspect of protection work legislation can be referred to the Resource Management and Planning Authority for a resolution. Any other matter not within the jurisdiction of the Resource Management and Planning Authority can be pursued through the court system but this is usually very costly and time consuming. The Resource Management and Planning Authority can be contacted on (03) 6233 6464.

## **1.8 I am building close to the boundary – do I need to advise the adjoining owners?**

**Part 4, 26 Schedule 3 of the Building Regulations 2004 states the following**

Owners are required to carry out protection work in the following circumstances:

- (a) If a party wall is to be made good, underpinned or repaired;



- (b) If a party wall is to be pulled down or built;
- (c) In the case of buildings connected by arches, or communications over public ways or over passages belonging to another person, if there is a need to rebuild or repair to conform with existing standards;
- (d) When a retaining wall requiring a building permit is to be built on the boundary of two or more properties;
- (e) When trenching for any purpose is required through property other than the owner's;
- (f) When cutting away any footings or chimney breasts, jambs or flues or other projections from any party wall or external wall in order to erect an external wall against that party or external wall;
- (g) If the owner intends to raise a party fence wall or pull it down and rebuild it as a party wall;
- (h) If the building owner intends to cut away or take down such part of any wall or building of an adjoining owner as may be necessary, in consequence of that wall's or building's overhanging or encroachment upon the ground of the building owner, in order to erect an upright wall against it on condition of making good any damage sustained by the wall or building by reason of such cutting away or taking down;
- (i) If the building owner intends to erect, or excavate to a level below that of the adjoining owner's footings, along the title boundary or within 3 metres of a building belonging to an adjoining owner.

## **1.9 PROTECTION FOR PUBLIC AND ADJOINING PROPERTIES**

**(1)** A builder must provide and maintain a guard in respect of an excavation or void if the excavation or void –

- (a)** Constitutes, or is made in the course of, building work; and
- (b)** Is a danger to the public.

A builder is required to carry out protection work in accordance with Schedule 3 of the Building Regulations of 2004.

A building surveyor may require additional protection work to be carried out.

Owners have an obligation/responsibility to verify the exact location of property boundaries and any easements before commencing building work, and if necessary engage a licensed surveyor to establish the correct alignment.

## **1.10 Steps in the process of building**

1. Building Design Considerations;
2. Planning Approvals;
3. Obtaining a Certificate of Likely Compliance;

4. Obtaining a building permit and a plumbing permit;
5. Undertaking the building work;
6. Completion of the building and plumbing work.

### **Building design considerations**

Owner builders cannot be the “responsible” designer of their owner project – meaning that an accredited building designer or architect must draw the plans as their own work. However the owner builder can provide as much input as they want into the preliminary design stages to achieve the outcome that they want.

### **Engagement of an architect or a building designer**

The accredited Architect or Building Designer engaged by the owner builders will provide the design and documentation services. The documents should contain drawings and specifications suitable for all steps from permit applications to site construction. In addition the architect or designer can be engaged to carry out a contract administration during the execution of the work and advise on which quotes to accept. They may also provide advice to the client and take care of running the project (but not perform the role of builder). This would be less likely to occur in an owner built project. Design that has been done for a planning application will normally be usable for a building permit application, although it may have considerably more technical detail added for this step. If you use the services of an architect or building designer, it is unlikely but not impossible that planning conditions may result in major change to the design. Often, a single set of documents are submitted to cover the requirements of all approvals that must be applied for, including planning, building and plumbing permits.

From 28 November 2012 the minimum information required in documentation is specified in [Schedule 1 of the Director’s Specified List](#).

### **1.11 Assessment and Certificate of Likely Compliance**

Before you can apply for a building permit, it will be necessary to have the final design documents assessed by the building surveyor you have engaged to ensure compliance with the *Building Act 2000*. This includes assessment against the performance requirements of the Building Code of Australia (BCA).

### **Choosing and appointing a building surveyor**

The Building Act 2000 allows you to use a private building surveyor or a council employed building surveyor to assess your building plans and other documents and issue the Certificate of Likely Compliance. The same building surveyor will also carry out any required building inspections. Once appointed, the building surveyor has a duty to carry

out all required building surveying functions relating to that project and they cannot be removed or dismissed by their client. The building surveyor is there to protect your interests and the communities' interests.

A building surveyor is not to be confused with a Registered Land Surveyor who makes plans for subdivisions and other land surveying work.

Most building surveyors now work in private practice, although some councils also offer building surveying services. You can find a building surveyor through:

1. The Yellow Pages; or
2. The Workplace Standards website has a search facility for finding accredited building practitioners;
3. Australian Institute of Building Surveyors.

If you intend to be an owner builder, the building surveyor cannot issue the Certificate of Likely Compliance until the Director of Building Control has confirmed that you are registered as an owner builder and has issued that building surveyor with an owner builder registration number for use on your application (see the section on owner builder registration).

### **The roles of a building surveyor include:**

- ❑ Seeking owner builder registration on behalf of applicants;
- ❑ Checking to see that the design is in accordance with the Building Act 2000 and the Building Code of Australia;
- ❑ Ensuring all required documents are submitted and requesting appropriate additional information;
- ❑ Issuing a Certificate of Likely Compliance;
- ❑ Inspecting the works at mandatory stages, issuing occupancy permits and certificates of final inspection. An Occupancy Permit indicates that the building is suitable for occupancy. A building must not be occupied until an occupancy permit is issued.

A Completion Certificate is issued by the Permit Authority when it receives the Certificate of Final Inspection from the building surveyor.

### **What is a Certificate of Likely Compliance?**

The building surveyor will consider the following matters (and there may be others) before issuing a Certificate of Likely Compliance:

- ❑ Is the proposed work, when completed, likely to comply with the Act, Regulations and the Building Code of Australia?
- ❑ Is the building capable of receiving adequate levels of light and ventilation?
- ❑ Is the building properly provided with sanitary facilities?
- ❑ Have adequate fire protection measures been put in place?
- ❑ Are the building's features safe for users?
- ❑ Is the documentation adequate to build the building?

The Building Surveyor may require a 'Certificate of Others' to be provided by experts such as an engineer where some aspect of the design requires specialist knowledge; examples include special structural design calculations, or an assessment of the energy efficiency of the design.

### **Standards of building work**

The standard controlling the detail of design and building construction in all States and Territories is the Building Code of Australia (BCA). It addresses the technical provisions for the design and construction of buildings and structures. It is produced in three volumes:

1. Volume One, Building Code of Australia, Class 2 - 9 Buildings and Appendix (commercial buildings);
2. Volume Two, Building Code of Australia, Class 1 and Class 10 Buildings (houses and outbuildings)
3. Volume Three, Plumbing Code of Australia, (plumbing installations)

There is a Guide to Volume 1 of the BCA and Volume 2 has some guidance notes within.

The BCA covers issues such as:

- ❑ Structure;
- ❑ Fire resistance;
- ❑ Access and egress;
- ❑ Services and equipment;
- ❑ Health and amenity in buildings;
- ❑ Energy efficiency.

The Building Act 2000 adopts the BCA as the technical standard that applies to all building work in Tasmania.

The BCA is part of The National Construction Code. The NCC is published by the Australian Building Codes Board (ABCB). The ABCB is established by inter-governmental

agreement and has representatives from all States and Territories as well as the building and plumbing industries. The NCC has three volumes and a Guide. It is referenced from the *Building Act 2000* as the technical standard for building work and plumbing work

The NCC provides the minimum safety, health, amenity and energy efficiency requirements for buildings and plumbing work and is written as a performance-based code. It is produced annually and comes into force on 1 May each year

The ABCB may be contacted at: [www.abcb.gov.au](http://www.abcb.gov.au)

### **Disability Access provisions**

Provisions in the BCA for disability access will influence the design and construction in all commercial, industrial, public buildings and accommodation apartments. That includes some tourist accommodation, including a guest house (Class 1b) and public toilets (class 10a).

However these provisions regarding accessibility do not apply to a private dwelling house or unit.

### **Questions regarding the BCA**

- ❑ If a query relates to clarifying a provision of the BCA, look up the BCA Guide for Volume 1;
- ❑ If a query relates to a project specific problem, talk to your building surveyor or the Permit Authority;
- ❑ If the query is about how to interpret a provision of the BCA, talk to a Building Surveyor.

### **Buying a copy of the BCA**

Copies of the BCA and the Guide to the BCA (printed or on-line) can be ordered via the Australian Building Codes Board On-Line Shop at this web address: [www.abcb.gov.au](http://www.abcb.gov.au)

Copies of the BCA are available at State Library of Tasmania reference libraries in every Tasmania city.

### **Other design considerations**

The final design must suit the site on which it is to be built. All building related decisions affect the cost of a home. Some other factors to consider include:

- ❑ Positioning and orientation of building for maximum solar benefit;
- ❑ Effect of the land contour on floors - split level, suspended or concrete slab on ground; (excessive slope often means higher building costs);

- ❑ The various material and construction alternatives;
- ❑ Compliance with the local planning scheme boundary setback limits;
- ❑ General compliance with the local planning scheme;
- ❑ Resale prospects – it is important not to over-capitalise or under-capitalise for the area, as the existing neighbourhood usually dictates price range.

## **Building site requirements**

The building site must have road access and services such as water, electricity and sewerage or approved waste water management on the site. It is advisable to contact the council planning and building departments before the plans are prepared.

## **1.12 Statutory Warranties?**

### **Implied warranties in building work contracts**

The following warranties on the part of the builder are implied in a building work contract:

- ❑ A warranty that the building work will be performed in a proper and skilled manner and in accordance with the plans and specifications agreed to by the parties;
- ❑ A warranty that all materials to be supplied by the builder for use in the building work will be good and suitable for the purpose and that, unless otherwise specified in the contract, those materials will be new;
- ❑ A warranty that the building work will be performed in accordance with the requirements of this or any other Act;
- ❑ Where the contract does not stipulate a period within which the building work must be completed, a warranty that the building work will be performed with reasonable diligence;
- ❑ Where the owner expressly makes known to the builder, or a person with express or apparent authority to enter into or vary contractual arrangements on behalf of the builder, the particular purpose for which the building work is required, or the result that the owner desires the building work to achieve, so as to show that the owner relies on the builder's skill and judgment, a warranty that the building work and any materials used in performing the building work will be reasonably fit for that purpose or for achieving that result.

### **Succession to statutory warranties**

1. A person who purchases or otherwise acquires a residential building succeeds to the rights of his or her predecessor in title in respect of statutory warranties;
2. Where a person purchases a residential building from a builder who has performed building work in relation to the residential building, the purchaser is entitled to the

benefit of the statutory warranties as if the builder had performed the building work for the purchaser pursuant to a building work contract.

### **Proceedings for breach of statutory warranty**

1. Proceedings for a breach of a statutory warranty are to be commenced within 6 years after completion of the building work to which they relate;
2. In proceedings for breach of a statutory warranty it is a defence for the defendant to prove that the deficiencies of which the plaintiff complains arise from instructions given by the owner contrary to the advice in writing of the defendant.

## 2 Owner-Builder Permit

### 2.1 How to Get your permit

#### What is an owner builder?

An owner builder is someone who decides to build and oversee the construction of their property themselves, who are the land owners or who plan on carrying out the building work themselves, or co-ordinate the different tasks and the tradespersons to construct the building in accordance with the *Building Act 2000*. You don't have to have any formal trade qualifications to be an owner builder, but specialist work - eg plumbing, gas fitting and electrical work, must be completed by a licensed professional.

Building your own home often takes longer and costs more than originally planned. It can be expensive, stressful, time consuming and complex. If you have building experience the savings can be significant.

You can choose to do all the work yourself, with the exception of specialist work, or can employ contractors to do all or some of the work.

The intending owner builder should consider their family's needs. The role of an owner builder is demanding, especially if you have a full time job and a family to support and think about. A building program will need the full support and cooperation of your partner and family.

As an owner builder **you have decided to take on all the tasks that a builder must do** to complete a successful construction project. You must allocate time almost every day to visit the site and keep activities on schedule, check work health and safety requirements, order materials, visit suppliers and hardware stores and make phone calls to remind tradesmen to advise you of delays or revised site timing schedules.

Calculate the absolute amount of time available to spare on the project. The cost of time spent on the project must be measured against money lost as foregone business earnings, time spent at your place of employment or with your family.

Unless you are confident that you can meet all of these and other competing requirements, you should seriously reconsider whether you should be an owner builder. Accredited Building Practitioners in Tasmania are equipped to provide all of these services and take all the responsibility for the construction and on-going satisfactory performance for your home.



You can find a **Register of Accredited Building Practitioners** by following the links on the Workplace Standards website: <http://workplacestandards.tas.gov.au>

### **Option One**

You take on the role of the builder and build everything yourself without engaging tradespeople (except in areas where licensed tradespeople are required by law, such as electricians and plumbers). You are the responsible builder.

### **Option Two**

You are the builder and do some of the work yourself and you oversee the project through to completion, but hire subcontractors or tradespeople to do part of the building work (for example framing or roof tiling). You are the responsible builder.

### **Option Three**

The owner builder is the construction manager; you organise all the materials and subcontractors (including perhaps an accredited builder) to create your building. You carry insurances, organise site management and safety, supervise progress and make your own inspections of the progress of works. You are the responsible builder.

## **2.2 Are you ready to be an Owner-Builder?**

### **THINGS TO CONSIDER**

Distressing tales abound of people who embarked on an owner builder program or purchased what was labelled a "kit home" hoping to realise their dream home, only to meet with some degree of failure or financial loss.

- ❑ Many owner builders lack basic skills, direction and experience. Consider the level of your confidence and ability, as the best-laid plans do go astray. It would be unwise to undertake tasks you do not feel confident about;
- ❑ Relationships can be seriously tested before and during the construction process.
- ❑ Building a house is a very time consuming and labour intensive task and needs a great deal of forward planning;
- ❑ Lending institutions may shy away from owner builders as they often lack the expertise and full knowledge of the commitment they are about to undertake;
- ❑ The Building Act 2000 introduced a system of Accredited Building Practitioners, and this has many advantages to offer consumers. Why take on the worry of being an owner builder when there are technically competent builders who will take on the duties and obligations required under the Act for the proposed building work.

## 2.3 Are you eligible to act as an owner-builder?

The *Building Act 2000* provides that intending owner builders must be registered before starting work. To be eligible to be registered:

- ❑ You must be a natural person;
- ❑ You must own the land on which you intend to build;
- ❑ You must not be in the business of building;
- ❑ You may not construct more than two buildings of any class (except Class 10 or Class 7b buildings) in a ten year period, not including any you may have built prior to 2004;
- ❑ You must have completed an approved owner builder training course to show that you understand your obligations as an owner builder;
- ❑ You must engage the services of an accredited building surveyor who will obtain a registration certificate from the Director of Building Control prior to issuing you with a Certificate of Likely Compliance for your building work.

It is your responsibility to check that you can satisfy all of these conditions and are eligible to act as an owner builder before you go too far with your project. An owner builder often has the expectation that there will be some financial saving, but if you assume that you will be able to act as an owner builder when you are not eligible to do so there could be undesirable implications for the success of your project both in financial and practical terms.

### **DON'T BE CONNED**

Some non-accredited people claiming knowledge of building, and even some accredited builders have offered their services to prospective home owners on condition that the owner poses as an owner builder. They offer promises of cost savings but what they are really offering is the risk of work performed by untrained or unqualified people. The owner-builder carries all the risk.

## 2.4 Owner-builder restrictions?

**Provisions in the *Building Act 2000* relating to owner builders are designed to: -**

- ❑ Underpin building practitioner accreditation by limiting the work done by non-accredited persons;
- ❑ Enable a reasonable outcome for genuine owner builders who intend to build on their own land;
- ❑ Reduce the number of builders (in the business of building) falsely claiming to be building their own home in order to avoid the mandatory insurance and accreditation provisions of the Building Act 2000;

- ❑ Protect consumers by ensuring that non-accredited persons who are in the business of building do not persuade unsuspecting clients to become “owner builders”.

**Also: -**

- ❑ Limitations on owner builders reinforce the owner builder category as being separate from Accredited Building Practitioners who are allowed by law to carry on a business of constructing buildings. The owner builder provisions will not prevent genuine owner builders from building their own home or adding to their own home;
- ❑ Owner builders are limited to working on only two buildings in 10 years on their own land;
- ❑ Restrictions on the work of owner builders are enforced in every other state and territory of Australia.

## **2.5 Enforcement**

To enforce the restrictions on owner builders the Director of Building Control records the names and details of every owner builder on a database and monitors their building activities. An owner builder will not be issued with a building permit *unless* their building surveyor has obtained an Owner Builder Registration Number from the Director (some smaller projects may be exempted from registration).

### **Exemptions**

In accordance with section 60(2) of the Act, building work on the following buildings is exempt from the requirement for a building permit:

- (a) A Type 1 exempt outbuilding if not more than 2 are erected under this exemption on an allotment, or a Type 2 exempt outbuilding if not more than one is erected on an allotment;
- (ab) A non-roofed deck that is –
  - i. Constructed of timber products; and
  - ii. Is not more than one metre above finished ground level; and
  - iii. Not closer than 900 millimetres to a boundary; and
  - iv. Not situated in a bushfire-prone area; and
  - v. Not situated within one metre of a drain or service easement;
- (b) A pergola, garden arch, trellis or frame if the structure –
  - i. Does not exceed 20 square metres in total area; and
  - ii. Is no more than 3 metres above the floor or ground; and

- iii. Is not covered or is covered only by open-weave material which allows water through;

(c) A swimming pool if –

- i. The maximum possible water surface area is not more than 9 square metres; and
- ii. The maximum possible water depth is not more than 300 millimetres;

(d) A non-roofed windmill, a mast, antenna or flagpole or the support structure of a wind turbine if –

- i. It is not attached to a building and not more than 6 metres high; or
- ii. It is attached to a building and is not higher than 6 metres above the topmost point of attachment to the building; or
- iii. It is a dish antenna with a diameter of not more than 2 metres and the total area of the dish antenna attached to the supporting structure is not more than 4 square metres;

(e) A fence or wall constructed of masonry or concrete if it is not higher than 1.2 metres;

(f) A fence constructed of a material other than masonry or concrete if it is not higher than 2.1 metres;

(g) A retaining wall if –

- i. It retains a difference in ground levels of less than one metre; and
- ii. It is situated more than 1.5 metres from a boundary or way;
- iii. A tank or silo with a capacity of less than 45 000 litres and its supporting structure;
- iv. A water tank stand if it is not higher than 1.2 metres;
- v. A builder's site shed if it is being –
- vi. Used in connection with building work for which building permit is in force; or
- vii. Stored in a location permitted by the building surveyor;

(k) An explosives magazine, a tank containing dangerous substances or a gas installation if the use of that magazine, tank or installation is controlled under the Explosives Act 2012 or Work Health and Safety Act 2012;

(l) The repair or maintenance of an existing building if the work is done for maintenance purposes using similar materials, equipment, installations and components to those being replaced;

(m) A non-habitable underground structure on a mining lease;

- (n) The installation of a stairway lift or platform lift in a Class 1a building;
- (o) A temporary structure that is –
  - i. Required to have a temporary occupancy permit; or
  - ii. Exempted under [regulation 38](#) from the requirement to have a temporary occupancy permit;
- (p) A permanent walkway or platform that –
  - i. Is not part of a building; and
  - ii. Is less than one metre above finished ground level; and
  - iii. Members of the public normally use or are permitted access to;
- (q) Electricity transmission and telecommunication infrastructure including towers, poles and lines constructed by a public or other authority but not including roofed buildings in electrical distribution substations;
- (r) Solar panels that cover an area of less than 18 square metres;
- (s) Agricultural crop protection structures that are wholly covered by netting, shade cloth or similar open-weave material.

An owner builder must then not start work or permit any work under their control to start before notifying their building surveyor and receiving authorisation in accordance with the *Building Act 2000* and the *Building Regulations 2004*.

**It is an offence under the Building Act 2000 that a person, in providing any information, statement, report or document, must not –**

- i. Provide it knowing it to be false or misleading; or
- ii. Omit any matter knowing that without that matter the information, statement, report or document is false or misleading.

Serious penalties apply.

## **Owner Builders and Building Legislation**

### **Legal definition of owner builder:**

The definition in sections 3 of the *Building Act 2000* is as follows:

“owner builder means –

1. A natural person who is registered under section 30D to manage or carry out work on a Class 1-9 building; and
2. An owner who manages or carries out building work on a Class 10 building;

## **What do these registration requirements mean?**

### **Natural person**

Q: Can a company, or an incorporated association or a family trust be an owner builder?

A: No, only individuals are a "natural person".

### **The intended building work must be on land owned by the owner builder**

This means that the owner builder(s) must either own the land upon which the work is to be carried out or have contracted to purchase it. Evidence of ownership is by a copy of the Certificate of Title or title deeds that can be checked against current databases of ownership, or a signed copy of the contract of purchase.

### **What if the land is jointly owned?**

Where more than one person, e.g. a husband and wife or family members, are named on the certificate of title to the land as joint tenants, or as tenants in common, all the joint owners constitute the owner builder and all owners must sign the Application for Owner Builder Registration ([Form 40](#)).

### **Can a tenant or lessee be an owner builder?**

Not usually because a tenant does not *own* the land and instead the landlord must be the owner builder applicant. However, a lessee with a long-term lease, such as a Crown land lease, or a 99 year lease can be registered as an owner builder.

### **Can I be an owner builder for a Strata Title Scheme property?**

Yes – you may build on the lot that you own as part of a strata title scheme. You must ensure that you have complied with the by-laws of the scheme and if necessary obtained permission of the relevant body corporate before applying to carry out building work.

### **The applicant must not be in the business of building**

The *Building Act 2000* will allow only genuine owner builders to build as owner builders. Persons who want to be developers or speculative builders, buying multiple land or buildings, building or renovating, then selling them, are not genuine. They are operating a business and should be accredited as a builder. You should seek information about becoming an accredited building practitioner if your occupation or business will be as a builder or another category of building practitioner.

Accredited builders cannot also be an owner builder as they already have a licence to build.

## **2.6 Restrictions on the number of owner builder constructed buildings**

The Building Act provides that an owner builder is allowed to build or alter two (2) buildings of any Classification within any ten (10) year period after the *Building Act* commenced on 1 July 2004. "Classification" refers to the building classification scheme in the Building Code of Australia. Please ask your building surveyor for advice regarding what class your building will be. Owner builders can perform work on a building of any Classification – meaning they are not restricted to dwellings. For example they can construct an office, shop, or warehouse.

**A building Classification relates to the entire building and the following are some examples of types of buildings and their classifications:**

- ❑ Class 1a dwelling house or a unit;
- ❑ Class 2 multistorey sole occupancy units;
- ❑ Class 3 boarding house, hostel, backpackers;
- ❑ Class 4 building as class 5,6,7,8 or 9 that is the only dwelling in building;
- ❑ Class 5 office;
- ❑ Class 6 shop;
- ❑ Class 7b warehouse;
- ❑ Class 8 laboratory;
- ❑ Class 9 aged care building;
- ❑ Class 10 non-habitable outbuildings, (e.g. garages, carports, sheds, swimming pools).

### **Example:**

Grant purchased lots in a new subdivision. Although not an accredited builder he says he is going to be a "spec builder" and has been buying land, building on it and then selling to fund his next project. Grant applies as an "owner builder" to build two houses on the lots. After completion, he sells these houses and then applies again as an "owner builder" to build a house "for himself" on another lot.

Can he do this?

### **Answer:**

No - as the two houses he has already constructed and sold have completed Grant's owner builder quota of "two buildings in ten years". He is prevented from building a third

project as an owner builder and must have an accredited builder take responsibility for the third house he wants to build. Grant will be prosecuted if he tries to evade this restriction on owner builders.

If Grant wants to legally enter the building business he should apply to become an accredited builder.

## **2.7 What classes of buildings are exempt from registration?**

The “two buildings in 10 years” restriction for owner builders does not apply to:

- ❑ Any Class 10 buildings; or
- ❑ A Class 7b building that is to be used exclusively as a farm or horticultural building.

Persons wanting to construct these Classes of buildings only can do so as the owner builder without requiring registration by the Director of Building Control.

### **Are there restrictions on the number of Class 10 garages, carports and outbuildings that an owner builder can construct?**

No – smaller sheds, garages and other separate outbuildings are not counted in the “two in ten years” restriction. These buildings or structures are classified under the Building Code of Australia as Class 10 and they are excluded from the range of buildings that owner builders are restricted in building in any ten-year period.

### **Are alterations to existing buildings counted as owner builder projects?**

Yes - an alteration or addition to an existing building, by an owner builder, will activate that building as one of two buildings allowed in a ten year period.

#### ***Example:***

Anna buys a farmhouse and renovates it as bed and breakfast accommodation. She then converts the farm stables into offices. Both her building projects are as an owner builder. Anna now wants to build houses on adjoining farmland. Can she do this as an owner builder?

#### ***Answer:***

No - although the building work that Anna has performed were alterations of existing buildings, because she has already been the owner builder on two existing buildings (farmhouse and stables) she cannot do a third owner builder project on another building within ten years of starting the farmhouse renovation (which is counted as her first owner builder project).



### **What about further alterations to an owner builder constructed building?**

An owner builder can carry out any number of alterations, extensions and additions to buildings on land they own, but only in relation to the same *two buildings* they own in a ten year period. The first owner builder building, or the first alteration to an existing building, counts towards the total of two projects in ten years. However any further alterations and additions to a building which is already counted as one of their owner builder buildings, does not count as an additional owner builder project. (Reference section 30E of the Building Act).

### **From when does the “2 in 10 years” owner builder time period start?**

The “two in ten year” period starts from when the first building project was started by the owner builder (when the Application to Start-Work was made to the building surveyor).

Owner builder restrictions only apply to any building work constructed by an owner builder *after* 1 July 2004.

#### **Example:**

James started construction as an owner builder on his first building in 2012. When does the ten year period end which would allow him to start a third building?

#### **Answer:**

In 2022. That means that James can still construct only one more building of any classification between 2012 and 2022 as an owner builder.

## **2.8 Other questions:**

### **Do owner builders have to do all the building work themselves?**

No - they may choose either to carry out all the building work themselves, or act as the construction manager of their project by engaging labourers, tradespersons and subcontractors to perform various tasks.

### **Is there a monetary limit on the work an owner builder can do?**

No - an owner builder can do building work of any value.

If the work is *under \$5,000* the owner builder does *not need registration* by the Director of Building Control and the “2 in 10 years” restriction is not applicable to that work of that value. The cost of the work includes labour and materials. The cost of an owner builder’s labour is not “nothing”; it will be assessed as an equivalent amount that a tradesperson would charge per hour. If re-using materials, the cost should reflect the cost of purchasing similar materials from a merchant.

## What are the types of work can an owner builder do?

Being an owner builder may include the carrying out or supervising the following types of building work: (Note: a building permit is required for this work):

- ❑ New building work, including a new dwelling;
- ❑ Renovations or alterations;
- ❑ Extensions and additions;
- ❑ Removing or altering load bearing walls;
- ❑ Works that may involve a change of use of the premises, e.g. converting a shop into a residence, or converting a garage into habitable space such as a bedroom;
- ❑ garages, carports, and sheds;
- ❑ Swimming pools and pool fences;
- ❑ Building a deck;
- ❑ Certain other structures and improvements including building retaining walls or fences over a certain height;
- ❑ Demolition work is *also* defined as building work and requires a Building Permit.

## Owner builders cannot do:

- ❑ Any work for which an occupational licence is required – this means any electrical or plumbing work. A licensed asbestos removalist must also do most asbestos removal jobs. A licensed contractor must perform this type of work;
- ❑ Owner builders cannot be the responsible designer of their own building work.

## Is there a requirement that owner builders be registered?

Yes - persons intending to become an owner builder must arrange with their building surveyor to be registered and obtain a registration number from the Director of Building Control.

However owner builder registration is not required for:

- ❑ Building work *under \$5,000* (cost of the labour and materials); or
- ❑ Building work that *does not* require a building permit; or
- ❑ Work on any non-habitable outbuildings (called 'Class 10' buildings) such as garages, carports, pergolas or similar;
- ❑ Large sheds built for farming or horticultural purposes (such as storage) are also exempt from registration. These are called Class 7b buildings.

If you intend to perform a type of work that does NOT need Registration you will apply directly to the council for building and plumbing permits.

## 2.9 Building permits

On July 1 2004, Tasmania's *Building Act 2000* became operational. A major reform included in the Act was the mandatory accreditation of building practitioners as a means of ensuring that those involved in the design, construction and assessment of buildings are appropriately qualified, insured and accountable.

These provisions do not prevent genuine owner builders from constructing their own buildings. Sections 23A and 30A of the Act, reproduced below, show that owner builders are specifically exempt from the requirement to be accredited. In all other respects, owner builders are bound by the provisions of the Act and are expected to meet all its requirements. Owner builders are considered to have the same responsibilities as accredited builders.

### Persons must be accredited for certain work

1. A person must not manage, carry out or enter into a contract to manage or carry out the work of a building practitioner in connection with building work which requires a building permit, and the cost of which exceeds \$5,000, unless the person is –
  - i. Accredited under this Part in the relevant category and class as specified in the scheme; or
  - ii. A building practitioner, being a body corporate or partnership, that complies with section 25; or
  - iii. An owner builder registered under section 30D.

### Owner to be registered as owner builder in certain circumstances

1. A natural person who is an owner of land or a building where building work is, or is intended to be, carried out or managed by the owner must be registered as an owner builder under section 30D if –
  - i. The work requires a building permit; and
  - ii. The estimated cost of the work exceeds \$5,000; and
  - iii. The work is on a Class 1-9 building, other than a Class 7b farm building.
  - iv. If the land or building is jointly owned, all the owners must apply for registration as an owner builder.

Penalty Fines apply

## 2.10 Applying for a building permit

Where more than one person, e.g. a husband and wife or family members, are named on the certificate of title to the land as joint tenants, or as tenants in common, all the joint owners constitute the owner builder and all owners must sign the Application for Owner Builder Registration ([Form 40](#)).

### **Before applying to become an owner builder, ask yourself these questions:**

- How much of your work and time can you dedicate to the project?
- What is your knowledge of the building industry?
- What is the condition of your health? (e.g. no back problems);
- Are you willing to be called back by subsequent owners to fix faults in workmanship?
- Can your marriage/relationship handle the stress involved with so many things that can (and probably will) go wrong?
- If intending to use sub-contractors, are you qualified or capable of supervising all construction work and have you the ability to co-ordinate the flow of work by sub-contractors to enable you to complete the project inside your time and cost schedule. The period required by the building permit for completion of the work is normally within two years.
- Are you able to handle financial or contractual disputes with sub-contractors?
- What about your availability to be on-site to receive materials and ensure that they comply with your orders for the required quantity and quality?
- Do you have the ability to distinguish technically what is defective building work?
- Are you aware of Occupational Health and Safety requirements for safety on all building sites and mandatory Workers Compensation Insurance for all workers you may employ? You will be responsible.
- Do you have the experience to establish the value of work completed on the project to enable you to make accurate payments to sub-contractors?
- Are you able to predict material and labour cost increases during the project, and will you have sufficient money left over to decorate your home?
- Are you able to determine if your proposed home site contains reactive clay, problem soils or is in a landslip hazard area?
- Are you aware of the time limits? - building work for which a permit is granted by the Permit Authority (local council) must be commenced within one year and completed within two years unless other arrangements are made with the Permit Authority;
- Is an existing property you intend to demolish, renovate, or alter subject to a listing (and hence restrictions) under the Historic Cultural Heritage Act, and are

you aware that old buildings may contain hazardous materials such as lead paint and asbestos?

- ❑ Are you aware of the exact boundaries of your land as this is your responsibility? You may have to engage a Registered Land Surveyor to check if the boundary pegs are in the correct place;
- ❑ Are you prepared to supervise the building work, notify the accredited building surveyor for required inspections, and make sure that the entire project is completed properly?
- ❑ Are you aware and able to make appropriate payments to all contractors and be aware of obligations of the Australian Taxation Office for taxation and superannuation requirements?

Before applying for a building permit, you need to choose a building surveyor. Choose either a municipal building surveyor or a private building surveyor.

You will need to inform them of your intention to build as an owner builder. You will need to complete an Application for Owner Builder Registration (Form No. 40) and give it to your building surveyor. Your building surveyor will seek your registration from the Director of Building Control on your behalf.

When you are registered and the building design complies with the provisions of the Building Act 2000 including the National Construction Code, the building surveyor will give you a Certificate of Likely Compliance.

You can then apply for a building permit from the permit authority at your local council. You will need to include all design documents, the Certificate of Likely Compliance and all other required documents with your building permit application.

Once you have received the Certificate of Likely Compliance from the building surveyor you can proceed with your application for a building permit. You will be required to submit multiple copies of various documents which are detailed in the [Director's Specified List](#), or on information available from your building surveyor or local council. Check to see if the council prefers an electronic application.

When you are ready to start work on site, apply to your building surveyor for their authorisation to start work ([use Form No. 39](#)). When you have authorisation you may start.

## 2.11 Application for building and plumbing permits to the Permit

### Authority

After the building surveyor issues a Certificate of Likely Compliance an application for a building permit can be made to the Permit Authority. The role of the Permit Authority is to enquire into certain matters before a building permit is issued, such as road access, water, sewage disposal and plumbing permits. The Permit Authority will also assess the proposal in terms of its compliance with the Act, with any relevant planning conditions and any other relevant legislation.

Some councils now use an electronic application system. Check to see if the council prefers an electronic application. You will need to fill in an application for a Building Permit on the Form available from the council office and normally provide these documents: (Numbers in brackets are the required number of copies).

- ❑ Certificate of Title, Schedule and Plan (1);
- ❑ Site plans (3);
- ❑ Architectural Plans (3);
- ❑ Outline Plan and procedure of demolition works if applicable (3);
- ❑ Details of proposed work for the protection of persons or property (3);
- ❑ Certificate of Likely Compliance (3);
- ❑ All documents referred to on the Certificate of Likely Compliance (3);
- ❑ All certificates and reports relied on by the designer and the building surveyor (1);
- ❑ Evidence of the contract price or an estimate signed by a building surveyor of the cost of the building work (1);
- ❑ A certificate for certifiable work (building) if required under the *Water and Sewerage Industry Act 2008* (1);

### Fees and charges also required:

- ❑ Permit Authority building and/or plumbing fees are assessed on the application and paid.
- ❑ State Government training and building levies must also be paid before a building permit can be issued.

## 2.12 Training Levy

The Training levy under the *Building and Construction Industry Training Fund Act 1990* is charged on any building project over \$12,000 and is calculated at \$2.00 per \$1000 of the estimated cost of the building, as indicated in the contract or as on the building application form. It is paid to the Permit Authority when lodging the building application.

## 2.13 Building Permit Levy

The *Building Act 2000* provides for a Building Levy to be collected by the Permit Authority (council) for building work and related plumbing work, the estimated total cost of which is \$12,000 or more (the contract cost, including materials, labour and GST). It is calculated at \$1.00 per \$1000 of the cost of the work. The levy is paid into a special building fund and used solely to develop a better regulatory environment for Tasmania's building industry. For owner-builder work, the cost is estimated by the building surveyor.

## 2.14 Plumbing and Special Plumbing Permit Applications

You will normally make these applications at the same time as the building permit application.

- ❑ A plumbing permit is usually required for the installation of any plumbing and drainage, including a water supply wastewater disposal;
- ❑ A special plumbing permit relates to on-site wastewater management systems such as septic tanks or aerated systems and any trade wastes;
- ❑ The Council's permit authority will assess the plumbing design documents for a plumbing permit. If you have questions about plumbing permit, contact the council.

All work must comply with the standards of plumbing work set out in the Tasmanian Plumbing Code. If the building is in a rural (e.g. non-sewered area) you will also need a Special Plumbing Permit if an on-site wastewater management system is to be installed (including a septic tank or a 'packaged' treatment plant). Many councils also have by-laws in relation to connecting to sewers and maintenance of on-site wastewater management systems.

### **The Plumbing Permit process is concerned with the following issues:**

- ❑ Is the proposed plumbing work likely to comply with the Act, Regulations and the Tasmanian Plumbing Code?
- ❑ Is sanitary drainage capable of being drained to a sewerage system or on-site wastewater management system?
- ❑ Is an adequate hot and cold water supply proposed?
- ❑ Are the buildings and their surroundings provided with an adequate stormwater installation?
- ❑ Is there an adequate fire-fighting water supply?

**Note 1: Note that as the owner builder you cannot perform any plumbing work. It can only be performed by a registered plumber.**

## 2.15 Time periods for consideration of applications for permits

- ❑ The period in which a building surveyor has to grant a Certificate of Likely Compliance is within 21 days of receiving the request for a certificate or a period agreed between the applicant and the building surveyor;
- ❑ The Permit Authority must grant a permit within 7 days of receiving an application for a Building Permit, or 14 days after receiving an application for a Plumbing Permit; or else a period agreed between the applicant and the Permit Authority.

These times refer to the periods in the [Director's Specified List](#).

### **If my Building Permit application is refused, can I appeal?**

Under Part 12, Division 2 of the Building Act 2000 you can appeal against a refusal to issue a permit (or the non-issue of a permit) to the Resource Management and Planning Appeal Tribunal, an independent and impartial tribunal. It considers cases where:

- ❑ A person appeals against the refusal or a failure to grant a permit, or
- ❑ A condition of the permit;
- ❑ Appeals relating to occupancy or temporary occupancy permits;
- ❑ Appeals relating to protection work (of adjoining property);
- ❑ Appeals regarding fire upgrading work under the General Fire Regulations 2000.

*More information about the RMPAT and its functions is available on the [RMPAT website](#).*

## 2.16 What types of building work require a Building Permit?

An owner builder must ensure that a relevant building permit, authorisation or notification is obtained before building work is commenced. Types of work that do not need building permits are found in the Building Regulations 2004. The Regulations provide for particular buildings and structures of a minor nature that do not require a building permit. These include specific small outbuildings, open pergolas, garden arches, trellis or frames, small swimming pools, a non-roofed windmill, a small mast, antenna or flagpole, boundary fences (if under a certain height), small retaining walls, certain water tanks and tank stands and decks under a metre high. Before determining whether or not a building permit is required for any proposed building work it is imperative that the applicability of the Building Regulations 2004 is verified. You will be able to obtain advice from a building surveyor or from the council Permit Authority.

## 2.17 The role of the Permit Authority and the Council

Under the Building Act 2000 each municipal council has authorised a person or body as a Permit Authority to receive and process applications for permits to carry out building



work. The Permit Authority is located at your local council office. There will also be a Permit Authority (Plumbing) appointed to assess and issue plumbing permits. The Building Act makes the General Manager of the Council the Permit Authority until a council authorises another person. The General Manager may delegate his powers to another person.

The council has a duty under the Building Act 2000, as far as is reasonably practicable, to ensure that the owners of property are informed of their duties under the Act in relation to building work or plumbing work and in maintaining and using buildings. The council can assist the owner builder with information on matters such as planning, environmental health, landslips, contaminated land and flood prone land.

## **2.18 Owner Builder Registration Process**

### **Why is registration of owner builders required?**

- ❑ The Director of Building Control must verify the eligibility of prospective owner builders before a building surveyor can issue a Certificate of Likely Compliance. This is done at an early stage in the building process, before applying for a building permit;
- ❑ A registration process has the advantage of allowing land owners to determine their eligibility to be owner builders before committing themselves to contracts or other legal and financial obligations;
- ❑ The registration process ensures that people who do not fit the legal requirements to be an owner builder are identified before they apply for a building permit or commence construction.

### **What types of work by an owner builder require Registration?**

If an owner builder intends to carry out any residential or commercial building work (Classes 1 – 9 in the Building Code of Australia Classification system) that requires a building permit and exceeds \$5,000, then that owner builder needs to be registered. This work includes alterations or extensions to a building. Their building surveyor must apply to the Director for a registration number.

### **What types of owner builder work are exempt from Registration by the Director?**

1. Owner builder work that is exempt from requiring a building permit from the council; or
2. Owner builder work (cost of labour and materials) that is \$5,000 or less (inclusive of the cost of the labour and the materials); or

3. Owner builder work on any Class 10 buildings or structures (e.g. non habitable buildings such as garages, carports, sheds etc.); or
4. Owner builder work on a warehouse (Class 7b) to be used for farming or horticultural use.

### **Steps in the Owner Builder Registration process**

1. Develop your plans with your architect or building designer and decide whether you want to become an owner builder.
2. If you decide to be an owner builder for work exceeding \$5,000 that needs a building permit, you must apply for registration and receive a registration certificate that has a unique registration number;
3. Complete our approved Owner Builder and Work Safely in the Construction Industry (white card) courses with us and receive your paperwork via email and post.
4. Take your completed plans to a building surveyor and advise them that you intend to be an owner builder. You will need to complete the Owner Builder Registration Application ([Form 40](#)) and give it to your building surveyor;
5. Ask your building surveyor apply to the Director of Building Control for registration as an owner builder. Once registered, the building surveyor will issue you with a Certificate of Likely Compliance that has your owner builder registration number written on it;
6. Apply for a building permit from your local council Permit Authority. You will need to include all design documents and the Certificate of Likely Compliance with your application for a building permit.

### **How is an owner builder's eligibility assessed?**

The assessment criteria are:

1. Ownership, or proof of purchase of the land that is to be built on;
2. Applicants must not have already built two buildings as an owner builder (except for any Class 10 buildings) since 1 July 2004;
3. Absolute Education issued certificates.
  - i. Owner Builder Course;
  - ii. Work Safely in the Construction Industry Course (White Card).

### **Who will act for you for during the registration applications?**

The building surveyor you engage will apply for an owner builder registration number on your behalf. Do not send any documents directly to the Director of Building Control.

### **What are the documents that will need to be provided to my building surveyor?**

1. An **Application for Owner Builder Registration** ([Form 40](#)) signed by all the land owners applying to be an owner builder.
2. If the land is held in a *maiden name* please provide a copy of your marriage certificate;
3. A signed **contract of purchase** of land (if you are buying the land you will build on);
4. Copies of our certificates.

## **Details about the Owner Builder Registration Application (Form 40)**

### **When is the Application for Owner Builder Registration form used?**

All persons who intend to be an owner builder for work on any Class 1 – 9 building where the total cost is over \$5,000 and needs a building permit will be required to be registered to be an owner builder.

### **Where can I obtain the application Form?**

From the building surveyor you engage (either in private practice or employed by a council, if the council offers building surveying services) or [Form 40](#)

### **Is filling in all the details on the application important?**

**Yes** - the information provided must be as accurate as possible and truthful. If details are missing you may be asked to provide further documentation. Your application will then be delayed and your owner builder project may be held up, costing you time and money.

### **Is signing the Application important?**

**Yes** - otherwise your owner builder project cannot proceed if the Application is not signed.

### **Do all owners need to sign?**

**Yes** - all the registered land owners. Otherwise the application will be rejected and your owner builder project cannot proceed.

### **Who should owner builders give the Application to?**

You must give your completed Application to the building surveyor to process your registration as an owner builder. The building surveyor must also sign in Section 4 of the Form.

## **How to complete the Registration Form**

### **Section 1 – Applicant’s Personal Details**

Provide full names and date of birth of all the land owners. If there are more than two joint land owners attach a separate sheet of paper with the details of each additional owner.

### **Section 2 - Details of Property**

Provide the project location, type of building work and main use of the building.

### **Section 3 - Details of Proposed Building Work**

Provide details of the type of building work and main use of the building.

### **Section 4 – Information to be provided by your Building Surveyor**

An estimate of the cost of the building work (labour, materials and GST) is to be provided as if the work were to be performed by an accredited builder.

### **Section 5 - Previous work as an Owner Builder by applicants**

Only include owner builder work started since 1 July 2004. If you have not built as an owner builder, then leave this part blank.

### **Section 6 Declaration by Applicants**

A signed statement is required from each land owner that they are aware of their obligations as an owner builder. If there are more than two joint land owners please attach a separate signed sheet. There are penalties for providing false or misleading information under the *Building Act 2000*.

### **Personal Information Protection Statement**

Information provided by applicants on the Form is collected by the Director of Building Control for the primary purpose of registration of owner builders. Basic personal information such as a date of birth is collected to identify those individuals who have built. It is used and maintained in accordance with principles of the *Personal Information Protection Act 2004*. This means that information cannot be used for commercial purposes or sold to third parties.

### **What is the outcome of Registration?**

- ❑ If all required information is provided and is accurate, the Director will give a registration number to the applicant’s building surveyor as soon as practicable.
- ❑ When the owner(s) are registered as an owner builder the building surveyor will then issue the Certificate of Likely Compliance with the Owner Builder Registration Number included on it.

- The details of all owner builders who receive a registration number will be entered on a Register maintained by the Director. This is used for checking that they do not exceed the permitted number of buildings that an owner builder is entitled to construct in the ten-year period.

## 2.19 Building Start-Work application and authorisation

As an owner builder, once you have received all relevant permits, it is your responsibility to notify your building surveyor before you start work on the site, and to receive their authorisation before starting work. This is done by means of approved [Form 39](#), the Building Start-Work Application and Start Work Authorisation. Once your building surveyor gives their authorisation a copy of that Form is sent to the council. (This Form is also available on the [Workplace Standards website](#), or our web site [www.abed.com.au](http://www.abed.com.au))

### Building surveyors

When you consider that almost anything you want to build on your land needs a building permit, building surveyors play a bigger role than you may realise in the building and renovating process, particularly during the construction process.

Building surveyors and building inspectors are responsible for making sure that buildings are safe, energy efficient and livable. They interact with other professionals such as engineers, architects and builders to ensure that buildings are designed and constructed to comply with building regulations. They provide advice on building legislation which could influence the design of buildings.

Accordingly, building surveyors work in your interest and the community's best interest to follow through the entire building process governed by the Tasmania's building legislation.

Once building work commences, the building surveyor remains involved throughout each stage, carrying out inspections or having a building inspector carry out the inspection on their behalf before giving the final stamp of approval. In the case of pouring structural concrete when building a new home, these inspections are carried out prior to placing the footings, at completion of the frame, and final inspection before the occupancy permit is issued to the owner. Along the way, if the inspection fails the building surveyor is authorised to take enforcement action, where necessary against the responsible party to ensure that the works are rectified and brought into compliance.

Building surveyors can also carry out inspections of established buildings to determine their existing condition and level of compliance with safety standards. The building inspection comprises an assessment of the building's fabric including issues such as

water tightness and structural adequacy. The inspection can include all parts of the building that are easily accessible.

As the building surveyor's role is primarily structural integrity, health and public safety of a building, the onus of workmanship and quality of material and finishes is the responsibility of the owner-builder and architect (if employed).

## **2.20 Certificate of final inspection**

Once the building work is completely finished, after application from the owner, the building surveyor will issue a Certificate of Final Inspection, of which a copy is sent to the Permit Authority, which in turn will provide you with a Certificate of Completion. Building work is now completed. Remember you have two years to finish the work – so obtaining this Certificate is very important. A failure to do so will mean:

- ❑ The building permit expires and must be renewed at your expense
- ❑ You could also be subject to compliance actions (notices and orders) from the council.

## **Schedule of Maintenance – essential safety and health features & measures**

If your building is in the range of Class 1b to Class 9 (commercial buildings) the building surveyor will provide you with a Schedule of Maintenance of Essential Safety and Health Features and Measures. It is your responsibility to maintain these features according to the schedule and to display a statement ([Form 56](#)) that you have performed maintenance of those safety features or measures during the previous year.

## **2.21 Occupancy permit**

An occupancy permit signifies that a building surveyor has approved your building as being suitable for occupation. It does not however, signify practical completion.

## **2.22 The Responsibilities of the Owner-Builder**

An owner builder has a responsibility for up to 10 years for latent defects that may be found in a building from the date the occupancy permit was granted. Because they were the responsible builder they may be sued for damages in a civil action. This duty of care can extend to subsequent owners of the building, even if the owner builder did not have a contractual relationship with them.

The owner-builder is responsible for the roles normally performed by the builder. This means you will be wholly responsible for the co-ordination and contracting of contractors and tradespeople. You, as the owner-builder, will be responsible for:

- ❑ Being aware of and complying with all the regulations that apply to the construction;
- ❑ Providing plans, specifications, engineering and technical details to the appropriate authorities and contractors;
- ❑ Getting the necessary approvals from all relevant authorities - e.g. local council;
- ❑ Calling for tenders and quotes, selecting and contracting professionals, and organising payment;
- ❑ Dealing with any disputes or problems that arise;
- ❑ Organising finance;
- ❑ Ordering, delivery, management, storage and coordination of materials and services;
- ❑ Organising for the building to be inspected by a professional building works supervisor or surveyor on completion and obtaining a signed statement of compliance;
- ❑ Ensuring all necessary insurance is in place - e.g. public liability insurance and workers compensation insurance;

**Other areas where owner builders may be subject to legal action include:**

- ❑ Starting building work without permits;
- ❑ Doing any work that only a licensed electrician, gas-fitter or plumber can do, or performing asbestos removal without a licence;
- ❑ Maintaining a building site that is unsafe for workers;
- ❑ Causing environmental nuisances or hazards (dust, noise, dirt on roads).

**Do owner builders have the same responsibilities as accredited builders?**

**Yes** - owner builders are required by law to meet the same legislative requirements relating to building work as accredited builders. These requirements are contained in the *Building Act 2000*, *Building Regulations 2004* and the Building Code of Australia (BCA).

They include:

- ❑ Obtaining a Certificate of Likely Compliance;
- ❑ Obtaining planning, building and plumbing permits;
- ❑ Notifying the building surveyor of prescribed stages of building work;
- ❑ Construction in accordance with the permit and any conditions and to the standard required by the Building Code of Australia;
- ❑ Payment of all fees, charges and levies associated with the work;
- ❑ Hold all relevant insurance policies (e.g. public liability, Workers Compensation).
- ❑ Have completed Owner Builder and General Induction training courses

Note that “**building work**” is defined in the Building Act as work relating to:

- i. Erecting, re-erecting, constructing, altering, repairing, underpinning, demolishing or removing a building; and
- ii. Adding to a building; and
- iii. Excavating or filling incidental to an activity referred to in paragraph (a) or (b); and
- iv. Any other prescribed work. (This is found in the building regulations).

The definition of “building” includes a proposed building, part of a building, a structure and part of a structure.

### **Duties of Builders**

The *Building Act 2000* sets out the duties of builders. As an owner builder you are also assuming these same duties:

### **Duties of builders and plumbers**

1. A builder or plumber is to ensure that he or she acts only within the area of his or her competence.
2. A builder who carries out building work or a plumber who carries out plumbing work is to ensure that –
  - i. A relevant permit, authorisation or notification is issued for the work before it is commenced; and
  - ii. Any directions under this Act are complied with;
  - iii. A builder who carries out building work or a plumber who carries out plumbing work, so far as is reasonably practicable, is to ensure that –
    - the work is carried out in accordance with the relevant permit or authorisation and this Act; and
    - the quality of the materials used in the work is in accordance with the relevant permit or authorisation and this Act; and
    - the building work is located on land owned by the owner; and
    - the work is carried out in a manner that does not cause –
      - a public health risk; or
      - a danger to the public; or
      - a nuisance to an adjoining owner; or
      - damage to infrastructure; and
3. Sufficient information is supplied to the owner for the owner to maintain the building in accordance with this Act.



## **What are some of the other responsibilities of an owner builder under the *Building Act 2000*?**

The owner builder, as both a landowner and as a builder for their own project, has responsibilities to:

- ❑ Obtain a Certificate of Likely Compliance from a Building Surveyor prior to applying for a building permit;
- ❑ Obtain a Building Permit and a Plumbing Permit from the Permit Authority prior to commencing any building or plumbing work;
- ❑ Clearly identify the building or land on which the building work is to be carried out;
- ❑ Comply with the Building Permit and Plumbing Permit and the permit documents and conditions as issued by the Permit Authority (local council);
- ❑ Ensure building work is located on land owned by the owner;
- ❑ Ensure that the building work is carried out in a manner that does not cause -
  - ❑ A public health risk; or
  - ❑ A danger to the public; or
  - ❑ A nuisance to an adjoining owner; or
  - ❑ Damage to council infrastructure;
- ❑ Notify the building surveyor within the specified period before each notifiable stage of the building work to allow inspections of work;
- ❑ Obtain an Occupancy Permit prior to occupancy;
- ❑ Obtain a Certificate of Completion (for both the building work and the plumbing work) from the Permit Authority after all work is completed.

### **The Duties of an Owner**

The *Building Act 2000* section 12(1) sets out the duties of owners under the Act:

The owner of a building who authorises building work in respect of the building, so far as is reasonably practicable, is to ensure that –

- (a) Any person engaged to carry out the building work and associated building work is an accredited building practitioner if so required under this Act; and
- (b) Correct information is provided to any person engaged to carry out the building work and associated building work; and
- (c) The building or land on which the building work is to be carried out is clearly identifiable; and
- (d) Provisions for the protection of adjoining property are carried out in accordance with this Act; and
- (e) The building is not occupied until an occupancy permit has been issued; and

(f) Sufficient information is supplied to the next owner for that owner to maintain the building in accordance with this Act.

(2) An owner who engages a person to carry out any plumbing work is to ensure, so far as is reasonably practicable, that the person is a plumber if so required under the *Plumbers and Gas-fitters Registration Act 1951*.

(3) An owner who engages a person to design plumbing work is to ensure, so far as is reasonably practicable, that the person is –

- (a) An accredited building practitioner; or
- (b) A plumber.

(4) The owner of a building, so far as is reasonably practicable, is to ensure that the building is used and maintained for the intended purpose in accordance with this Act.

### **Does an owner builder provide warranties to future owners?**

Yes - owner builders provide warranties for their work for a period of six years from the date of completion of a residential building. The warranties include:

1. Work will be performed in a proper and skilled manner
2. All materials used by the owner builder will be good quality and fit for the purpose intended
3. Work will be performed in accordance with statutory requirements including the *Housing Indemnity Act 1992* and the *Building Act 2000*.

On the sale of the residence the right to enforce these warranties against the owner builder passes to the purchaser. The warranties are implied by law under the Housing Indemnity Act and cannot be contracted out.

**Note 1: The *Building Act 2000* sets out the duties of builders. As an owner builder you are also assuming these same duties.**

## **2.23 Owner-builder Offences**

### **Are there fines for infringing the owner builder restrictions?**

**Yes** – the Register of Owner Builders maintained by the Director of Building Control is continuously checked and “owner builders” who attempt to construct more than two buildings in ten years will be prosecuted. This is to protect consumers against “speculative builders” who have no accreditation and insurance and are operating a building business simply through buying and selling land. Persons who sign the

Application for Owner Builder Registration ([Form 40](#)) and provide false or misleading information will also be prosecuted.

## 2.24 Standards Australia

For an up to date listing of the relevant standards for residential building, or if unsure of the current standard for any aspect of your owner-builder project then the latest standard can be purchased from: <http://www.standards.com.au/> or can be contacted by phone on 1800 035 822.

## 2.25 6 Star Standard applies to new homes, renovations, alterations and additions

- ❑ Tasmania has required mandatory energy efficiency measures for new housing for over a decade (since 1 January 2003);
- ❑ Since 2009 a "5 Star" requirement under the Nationwide House Energy Rating Scheme (NatHERS) has applied under the Building Code of Australia (BCA) New Tasmanian buildings will require a higher "6-Star" standard in 2013-2014.

A 6 Star energy efficiency rating applies to your home's building envelope – its roof, walls, floor and windows. 6 Star requirements also include efficiency standards for lighting but not plug in appliances.

Meeting 6 Star compliance is not difficult: it's about good design, particularly at the planning stages. So talk to your building professional early to take advantage of the benefits, such as increased comfort, saving money on energy bills and making your home more resilient to climate change. Carefully selecting your site so your home's orientation takes advantage of solar energy can add up to 1 Star to the rating.

Star homes are projected to use **30% less energy** through heating and cooling compared to 5 Star homes. This will see Tasmanians with 6 Star homes saving their energy bills each year. This is only an average saving, with residents who use their energy features in their home wisely saving even more. Consider design options that go beyond minimum regulatory requirements: it pays in the long run.

### What types of buildings do the "6-Star" requirements apply to?

- ❑ All Class 1 buildings (detached house, unit or town house);
- ❑ All Class 2 buildings (apartments); and
- ❑ Class 10a buildings (such as garage) that have a conditioned space (heated or cooled) attached to a Class 1 building.

The 6-Star requirements also apply to new work on an existing residential building such as additions, extensions and alterations.

### **What are the main changes introduced by the "6-Star" requirements?**

- ❑ More insulation is needed to meet increased minimum R values;
- ❑ More stringent glazing provisions;
- ❑ Compensation for ceiling insulation loss from openings such as exhaust vents and downlights;
- ❑ New requirements for fixed lighting.

### **Achieving the "6 Star" level**

"6 Star" refers to the required level of thermal performance for the building. That level can be achieved by either:

- ❑ Complying with the relevant elemental Deemed-to-Satisfy Provisions in the BCA;  
or
- ❑ Achieving an energy rating of not less than 6 Stars using house energy rating software that complies with the National House Energy Rating Scheme (NatHERS).

### **How is compliance with "6-Star" verified?**

The *Building Act 2000* requires a permit for new building work to ensure it will comply with the National Construction Code (NCC). The design of new homes and extensions is assessed against the NCC by a building surveyor for the issue of a Certificate of Likely Compliance. This assessment includes checking for compliance with the 6-Star energy efficiency requirements.

### **Who can perform an energy assessment for "6-Star"?**

An energy assessment of new homes and extensions can be completed by the responsible designer (an accredited architect or an accredited building designer) if they are competent. That is part of their work as an accredited designer.

- ❑ An energy efficiency assessment may be made using the Deemed-to-Satisfy approach (prescriptive construction requirements for thermal comfort) in the NCC;  
or
- ❑ Energy efficiency may also be verified using a computer-based energy rating program operating approved "second-generation" software. A printed verification report, signed and dated and the supporting documentation must be provided to the building surveyor.

An expert house energy assessor, who is not the responsible designer, can also undertake energy rating assessments using the approved software. They must provide a verification report, supporting documentation and complete a Form 55 "Certificate of

Specialist or Other Person" to provide to the building surveyor. However the Form 55 can only be accepted by a building surveyor if that energy assessor is accredited by either:

1. ABSA (the Association of Building Sustainability Assessors); or
2. BDAV (the Building Designers Association of Victoria).

There is no requirement that an independent energy assessor must also be accredited under the Building Act 2000 as a building practitioner in Tasmania.

### **Designing and constructing a "6-Star" energy efficient house**

Designing and constructing a new home or extension to be 6-Star energy efficient will cost much less than attempting to refit an existing building. That is why the 6-Star requirement is mandatory for new work at the design or construction stage.

Homes incorporating sound environmental design principles can minimise heating and cooling bills and have a lasting positive impact on the environment by reducing greenhouses gases. Some of these principles include:

- ❑ Site responsive design and appropriate house zoning orientation;
- ❑ Well insulated wall, floor and ceiling;
- ❑ Thermally efficient windows;
- ❑ Northerly orientation to gain maximum advantage from solar energy;
- ❑ Internal and external shading of windows and walls in summer.

### **Consider the climate zone location**

The 6-Star energy efficiency requirements depend on the climate zone in which a house is located. Climate zones are determined on climatic data and there are two Tasmanian zones:

- ❑ Zone 7 (covering most of the state including the Bass strait islands)
- ❑ Zone 8 (covering only alpine areas above 900 metres).

### **Consider the orientation of the house on the block**

Good solar orientation of a house has the potential to achieve substantial energy savings when combined with an efficient design. Houses built with a north facing orientation for the main living areas are more likely to easily achieve a 6-Star rating.

Houses with large areas of glazing facing south, west or east may still achieve 6-Star but are then likely to incur higher construction costs and on-going heating costs for the occupants.

### **Consider the envelope of the house**

The design and construction of the house's envelope - roof, external walls and floors - will have an effect on the thermal comfort of a house. To achieve a 6-Star rating, the following is required:

- ❑ Insulation of roofs and ceilings;
- ❑ Insulation under suspended floors;
- ❑ Selection of appropriate glazing systems (windows and doors);
- ❑ Consideration of the number and size of roof lights (skylights) and ceiling penetrations including downlights;
- ❑ Sealing of openings and gaps to prevent draughts and covering of disused fireplaces.

### **Websites**

- ❑ The Australian Building Codes Board (includes Tasmanian Climate Zone Map) [www.abcb.gov.au](http://www.abcb.gov.au);
- ❑ Nationwide House Energy Rating Scheme (NatHERS) [www.nathers.gov.au](http://www.nathers.gov.au)
- ❑ Commonwealth Government Department of Climate Change [www.climatechange.gov.au](http://www.climatechange.gov.au);
- ❑ Living Greener [www.livinggreener.gov.au](http://www.livinggreener.gov.au);
- ❑ Tasmanian Government Energy Efficiency site "Earn Your Stars" [www.climatechange.tas.gov.au](http://www.climatechange.tas.gov.au);

### **Find an independent energy assessor**

- ❑ ABSA [www.absa.net.au](http://www.absa.net.au);
- ❑ BDAV [www.bdav.org.au](http://www.bdav.org.au);

## 3 Licensing Requirements and Recommendations

### 3.1 Licence Requirement

Owner-builders are permitted to undertake residential building work, excluding work of a specialist trade, unless the owner-builder holds a current and valid license for that specialist trade. Specialist trades include:

- ❑ Plumbing including draining & air-conditioning;
- ❑ Gas fitting; and
- ❑ Electrical.

All contractors licensed under the Occupational Licensing Act 2005 must hold insurance cover as directed in the Occupational Licensing General Insurance Notice 2010

#### Who is qualified to undertake the building work?

Whenever you contract with a builder or tradesperson (plumber, electrician etc), ask to see their licence. If they can't produce it, then ask for their licence or registration number, and then telephone Workplace Standards Australia 1300 135 513

**Note 1: Ask the tradesperson to provide letters of recommendations from previous customers and to view recent examples of their work.**

### 3.2 Plumbing Work and Plumbing Installations

Plumbing work and plumbing installations in Tasmania are regulated under the [Building Act 2000](#) and the [Plumbing Regulations 2004](#) and the Tasmanian Plumbing Code.

The Tasmanian Plumbing Code is a performance based code which provides for performance based solutions. The [Building Act 2000](#) requires all plumbing work and plumbing installations to meet the performance requirements. The requirements are designed to ensure that any plumbing and drainage work or installation is fit for its intended purpose, do not have an adverse impact on the environment and can continue to function as intended without excessive maintenance. Being a performance based code it allows for any solution to the performance requirements provided they are supported by the appropriate assessment methods. Many users of the code however, will choose to use the code without making use of this opportunity by complying with prescriptive provisions such as Australian Standard 3500 Plumbing and drainage Standards.

To carryout plumbing work a permit from the council permit authority is required unless the work is exempted under the [Plumbing Regulations 2004](#). You should always check with the relevant council permit authority before you have plumbing work carried out. All

plumbing work must be carried out by licensed plumbers unless that work is exempt from licensing under the [Occupational Licensing Act 2005](#). For further details regarding licensing please visit the Workplace Standards Web Site Occupational Licensing Page [http://workplacestandards.tas.gov.au/licensing/occupational\\_licensing](http://workplacestandards.tas.gov.au/licensing/occupational_licensing)

### 3.3 Electrical Work

The minimum requirements for the record of electrical work are specified in the [electrical approved forms notification DD020](#) found on <http://www.stors.tas.gov.au/au-7-0111-00671> or our web site [www.abed.com.au](http://www.abed.com.au)

There is a mandated [standards of electrical work code of practice](#) that defines the minimum requirements to which electrical work is to be performed and tested.

If electrical work does not comply with the standards of work specifications, it is considered to be [defective electrical work](#), which once identified must be rectified. E.g. a power point is too close to a sink, shower or bath, or an overhead conductor that insufficient clearance from the ground or a structure.

#### Electricity Standards and Safety

Phone: 1300 366 322

Email: [wstinfo@justice.tas.gov.au](mailto:wstinfo@justice.tas.gov.au)

Web: [www.wst.tas.gov.au](http://www.wst.tas.gov.au)

PO Box 56,

ROSNY PARK TAS 7018

#### The Department of Justice, Workplace Standards

Call 1300 366 322 (within Tasmania) (03) 6233 7657 (outside Tasmania)

[http://workplacestandards.tas.gov.au/licensing/occupational\\_licensing](http://workplacestandards.tas.gov.au/licensing/occupational_licensing)

**Note 1: Even where the work falls outside of these specialist trades, full consideration of the complexity of the work should be taken into account. For instance the owner-builder may also consider getting an accredited builder for complicated work, even though you are allowed to do the work yourself.**

**Note 2: If the owner-builder is unsure about the specialist trades or if work falls into a specialist trade, the owner builder should contact the Department of Justice, Workplace Standards for advice.**

### 3.4 Work Health and Safety Regulations 2012:



Under the *Work Health and Safety Regulations 2012* you must have a WHS Management Plan when the value of your construction work is over \$250,000. Under the regulations, your plan must include:

1. The names, positions and WHS responsibilities of everyone at the workplace who has a specific WHS role;
2. The arrangements in place for consultation, cooperation and coordination of activities
3. The arrangements in place to manage any WHS incidents;
4. Any site specific WHS rules and the arrangements to ensure everyone knows about these;
5. The arrangement for collecting, assessing, monitoring and reviewing Safe Work Method Statements.

[The WHS Management Plan in Part B](#) is designed to help you meet this requirement and can be downloaded from our web site [www.abed.com.au](http://www.abed.com.au) or [www.worksafe.tas.gov.au](http://www.worksafe.tas.gov.au).

**Note 1: A Safe Work Method Statement helps you identify and manage the hazards and risks associated with high risk construction work.**

## 4 Contract information

### 4.1 Contract Recommendations

It is a good idea to seek quotes from at least three different subcontractors / tradespeople. Ask each prospective contractor to give you a list of references containing at least three jobs recently completed. Feedback received from the referees should reflect the tradesperson's claim regarding the purported quality of their work.

#### **Suggested questions to ask the referees are:**

- Did they start the work on time?
- Did the builder finish the work on time?
- Are you happy with the quality of the finished work?
- Were extras charged for and, if so, were they reasonable?
- Did they use the correct materials?
- Was the tradesperson approachable?
- Did the tradesperson answer your enquiries in a way that you could easily understand and in a timely manner?
- Do you belong to a building or trade association?
- Do you hold any trade qualifications or licences?
- Can I inspect recent examples of your work?
- Are you familiar with the work that I want done and are you capable of doing the work competently?
- When could you start?
- How long do you think the job will take?
- Can you give us an estimate of the cost of the job?
- What are the terms of payment and at what stage?
- Are you covered by insurance such as Workers Compensation, Public Liability or Income Protection? (Ask for copies of insurance certificates.)

**Check to ensure that the builder / tradesperson have not claims lodged against them or any outstanding tribunal orders not complied with by contacting:**

1. The Department of Justice;
2. Consumer Affairs; and

**Note 1: Ask contractors for copies of insurances prior to commencing work.**

**Note 2: Where appropriate ask contractors for work method statements.**

## 4.2 What needs to be in the contract

Standard contracts are available from the Master Builders Association and the Housing Industry Association.

The use of template contracts may simplify the contracting process. However, it is very important to analyse the terms and conditions in the contract to avoid unintended consequences.

### A written contract must contain:

- ❑ The date and signatures of both you and the builder or tradesperson;
- ❑ Your name;
- ❑ The name on the builder's or tradesperson's contractor licence card and the licence number (Perform a Licence Check before signing the contract);
- ❑ A sufficient description of the work to be carried out;
- ❑ Any plans or the proposed work and specifications attached;
- ❑ The contract price which must be prominently displayed on the front page; and
- ❑ A warning and explanation if the contract price is unknown or subject to change.

### Ensure that the following things are addressed in the contract

- ❑ Contract is in English and legible;
- ❑ To tie the plans with the contract they must all be signed, "this is the plan referred to in our Building Contract dated...";
- ❑ Special details and drawings of items such as kitchen cupboards, stair details, wardrobes, etc. should also be signed;
- ❑ Written specifications should detail types of style of finishes, tap ware, doors etc. Include detailed finishes (e.g. number of coats of paint);
- ❑ The start and finish dates are stated. In calculating the finish date provision should be made for types of delay such as inclement weather and non-working days. Where there is a reasonable likelihood that the delays may affect the time required to carry out the building work the contractor must state the number of days the contractor has allowed for each type of delay;
- ❑ If the start date is unknown, the contract should state; how the start date is to be decided; and the number of days required to finish the work; and that the work will start as soon as possible;
- ❑ Location of the building or description of the land such as a lot plan number;
- ❑ Payment provisions are clearly stated, including deposit and progress payments;
- ❑ Definitions of key terms;
- ❑ If the contract includes footing and slabs, soil test data or geo-technical
- ❑ Any "variations" (changes made to the work to be done under the contract) whether initiated by the subcontractor or the owner builder must be fully detailed

in writing, and must be supported by the plans and specifications where these are required for the work. Variations form part of the contract documentation. The subcontractor should put any variations in writing as soon as possible including the price change, a reasonable estimate of the work, and a reasonable estimate of the delay. Owner builders should be aware that variations often result in added costs and time delays;

- ❑ Prime Cost items and Provisional Sums should appear on separate schedules. If the contract price is subject to change, it should be clearly stated near the contract price and state all the provisions in the contract that allow for the contract price to be paid;
- ❑ Materials used must be good and suitable for the purpose;
- ❑ Materials must be new unless otherwise agreed;
- ❑ The contractor will comply with all applicable laws, including the building permit and conditions;
- ❑ Work will be carried out in accordance with all plans and specifications;
- ❑ That the contractor will carry out the work in an appropriate and skilful manner;
- ❑ A provision that upon complete of the home, renovation or extension will be suitable for occupation.

It is essential that you should obtain independent legal advice for further details on contractual matters, or the meaning of specific provisions of a particular contract. In Tasmania there are no "cooling off periods" for building contracts and no building contracts dispute tribunal. Disputes may have to be settled by arbitration or legal action, so it is wise to try to avoid problems before they arise. Standard contracts are available for purchase from professional bodies and industry associations.

**Note 1: Contracts define the legal relationship between yourself and the tradespeople you contract with. It is important to consider all aspects of the work to be carried out when formulating the contract. Variations to the contract can often lead to delay, disappointment and extra cost.**

Owner-builders should use fixed price (also known as lump sum) contracts to avoid variations by the contractor. The only exception would be with regard to excavation where rock is encountered. Variations for unforeseen circumstances are usually catered for in the standard form contracts.

**Note 2: Read contracts carefully and understand what you are reading before signing. Ensure that your agreed schedule of payments matches the value of work, so that you only pay for work that has been completed.**

### 4.3 Contracts and GST

Contracts should include the GST component as part of the total price of the contract. Beware of tradespeople who try to convince you that GST is not included in the total cost of the contract.

Business Activity Statements are not the responsibility of the owner-builder and the owner-builder is not eligible to claim a refund on the GST component paid on materials or contracts. (For more information visit [www.ato.gov.au](http://www.ato.gov.au)).

It is important that the tradesperson/builder supply tax invoices or receipts for work completed. This will ensure as far as possible that the contractor is meeting his obligations in relation to the honouring of their Pay As You Go taxation requirements. Ensuring the tradesperson supplies a tax invoice will help to avoid any disputes about payments.

As an employer, the owner builder may be liable for payments of tax and superannuation for the wages paid to employees and subcontractors during the building project. To clarify your obligations for tax, please contact the Australian Taxation Office or visit their website [www.ato.gov.au](http://www.ato.gov.au).

### 4.4 Progress Payments

Do not pay progress payment money in advance of the completion of the work. Before you make each progress payment, check the work:

- Is complete;
- Meets your contract requirements (including the requirements of your lender);
- Meets the requirements of the building permit and building regulations.

If you are not confident checking the work, it may be worthwhile using an independent building consultant to check that everything is complete or working before you make the next progress payment.

#### **When making progress payments, who should be paid?**

The written building contract will state the names of the parties who have entered into the contract. The person making the progress payment should only pay the party (person, partnership or company) whose name appears on the contract. For example, if Jane Smith (owner) and Mr. Will Brown (builder) have entered a building contract, then Jane Smith should only make her payments to Mr. Will Brown.

The signed contract between yourself and the tradesperson should set out the agreed stages of the construction that payment can be requested. Where appropriate you may consider the negotiation of retention amounts. It is recommended that between 5 -10% of the contract price be retained depending on the contract sum. You the owner-builder would need to write this into the contract.

As for how much and how often progress payments are made will depend on the circumstances. The basic rule is that you only pay for work that is completed. If borrowing money to finance the construction of your home or renovation, the bank or lending institution may have special requirements for progress payments. Additional clauses in the contract may have to be inserted to cover them. It is important to have finance arranged before you enter into the contract, due to the bank or lending institutions' requirements.

### **The "Security of Payment" Act – how it affects owner builders**

Owner builders will need to enter into contracts for carrying out of certain building work or the supply of services and materials with sub-contractors, suppliers and consultants. Sometimes disputes arise and owner builder may decide to withhold their payment for work, materials or services.

In 2010 Tasmania introduced a new system to deal with disputes about payments for building work under the Building and Construction Industry Security of Payment Act 2009 (BCISPA). This Act applies to a wide range of builders, contractors and suppliers. It also applies to owner builders so you need to be aware of your responsibilities and what to do if you receive a payment claim made under the new Act. It applies to all contracts (written or oral) in relation to any building work or services for that work or the supply of building materials. It creates a statutory right for contractors and sub-contractors to suspend work (under certain circumstances) for the non-payment of progress claims.

The BCISPA aims to help resolve building disputes quickly through the exchange of information and adjudication so parties can continue to work together and enable money to flow. It establishes a quick and informal adjudication process for the interim resolution of payment disputes. The adjudication process determines the amount of payment owed immediately, without affecting the rights of parties to have disputes determined later through litigation.

An important feature of the BCISPA is the amount of time that someone has to respond to a claim for a payment. The timelines are deliberately short in order to allow matters to be quickly resolved so that parties can continue to work together. If the respondent does not respond to a claim within 10 business days, they will lose the opportunity to later

provide additional information to an adjudicator in response to that claim. The significance of not providing a response to a claim should not be underestimated. In most cases not responding to a claim in the proper manner and within 10 business days, results in the claimant being awarded the full amount claimed.

If you find yourself in a dispute over payment there is important information you will need to know about how the BCISPA works. Workplace Standards has produced guides that explain the processes:

1. [Information for claimants \(publication code GN016\);](#)
2. [Information for respondents \(code GN015\);](#)

For your free copy call the Workplace Standards Helpline on 1300 366 322 or download from our web site [www.abed.com.au](http://www.abed.com.au)

For advice on the process please contact one of the four Nominating Authorities appointed to assist claimants and respondents with the adjudication process. Their contact details can be found on the Workplace Standards website.

**Note 1: If your contract has terms and conditions relating to progress payments, negotiate with your tradesperson or sub-contractor before signing, as once the contract is signed the terms and conditions in the contract are**

**Note 2: Check with your lender to see if they have any special requirements before progress payments will be released. For example some lenders may require a written report or inspection.**

## 4.5 Variations and additions to a contract

A variation is a change or adjustment to what has already been agreed in the contract. A common reason for varying a contract is due to unforeseen circumstances. The builder or tradesperson may request the contract be varied where unforeseen expenses are incurred or circumstances differ materially from what was expected.

Additions are items that the homeowner wishes to add to what was previously agreed. Variations and additions can be expensive because they disrupt the builder's program and generate more work. If you do need to make a variation to the contract, make sure it is in writing and attached to the contract and signed by both you and the builder/tradesperson.

Any “variations” (changes made to the work to be done under the contract) whether initiated by the subcontractor or the owner builder must be fully detailed in writing, and must be supported by the plans and specifications where these are required for the work. Variations form part of the contract documentation. The sub-contractor should put any variations in writing as soon as possible including the price change, a reasonable estimate of the work, and a reasonable estimate of the delay. Owner builders should be aware that variations often result in added costs and time delays.

Any changes to the approved plan during the construction period will require amended documentation and will require the consent of the building surveyor and perhaps the Permit Authority. Stages of works specified by the building surveyor will require notification for inspection prior to that work being performed. It is also imperative that co-ordination of the different trades and companies and authorities such as electrical supply, gas, water supply and sewerage, telecommunications and fire services, is clear to all parties during construction to reduce the need to open up completed construction.

Before the work commences on the variation or addition, the builder or tradesperson should give you a written description of the work, any plans or specifications for it, the extra cost, and any extra time required to complete the work, if known. The variation should include the cost of materials and labour. Both the tradesperson and you should sign this written variation, if you agree on the scope of the proposed work and price. If you don't agree, don't sign.

**Note 1: When you negotiate your original contract, think things through and be specific as possible. This will save the need for expensive variations, delays in completing your project and possible legal costs.**

**Note 2: If the reason for variation is the builder's or tradesperson's fault, you do not have to pay for any extra work needed to rectify the problem and should not be pressured into varying the contract.**



## 5 Insurance.

### 5.1 Introduction

Failure to obtain adequate insurance cover could jeopardise your owner builder project;

- ❑ Insurance is a necessary safeguard for you and for the loan institution that is backing the project with finance. If finance is being obtained through a lending institution, they will require evidence of a Construction and Public Liability Policy before they will release any funds;
- ❑ If you decide not to insure, the risk of potential loss is much greater, than for example, not having car insurance. A substantial loss on uninsured building works would cause financial ruin to most owner builders.

### Insurance under the Housing Indemnity Act

Mandatory insurance for domestic building work that was required to be purchased by a builder (before starting work) or by an owner builder (on the sale of the building) was discontinued on 1 July 2008. For contracts entered or work performed before that date, the statutory insurance still applies for six years after the completion of the work.

However there are restrictions on when an owner may lodge a claim to gain the benefit of the insurance; the builder must have died, disappeared or become insolvent (bankrupt).

### Responsibilities of owner builders for 10 years

An owner builder has a responsibility for up to 10 years for latent defects that may be found in a building from the date the occupancy permit was granted. Because they were the responsible builder they may be sued for damages in a civil action. This duty of care can extend to subsequent owners of the building, even if the owner builder did not have a contractual relationship with them.

### Other Insurance

Other types of insurance are just as applicable to owner-builders as to contractors. These regulatory bodies may mandate you as owner-builder to take out insurance depending on the circumstances of your property development. Even where not mandated however, it is recommended that you consider your exposure to claims for damages or injury. It is practically unheard of for a licensed builder to undertake any construction project without the appropriate insurances in place, due to the very serious nature of the risks faced.

These include but are not limited to:

- ❑ Public Liability insurance;
- ❑ Contract Works (Builders All-Risk) Insurance;

- Workers Compensation.

These insurances do not cover the owner-builder themselves for injury or illness, for which the owner-builder should enquire about separately. The homeowner should also check that each trade contractor also has their own Public Liability and WorkCover Tasmania insurances.

## 5.2 Contract Works Insurance

Builder's contract works Insurance policy covers the main risks during construction: malicious damage, theft, vandalism, fire, storm, and wind and water damage. Some policies also include the costs of demolition of damaged work and professional fees in the event of a major claim. Be aware that many domestic house and contents insurance policies do not cover building work and will only apply once the work is finished and the building surveyor and the Permit Authority have issued the necessary completion certificates. This is particularly important if an owner builder is making an alteration to an existing building, as some policies may not cover the existing building during the construction period either.

It is important that you do not under quote the "replacement value" when applying for the construction insurance. If you under-estimate the value of construction at the time the insurance policy is taken out, you may inadvertently be exposing yourself to risk.

In the unfortunate event that you need to make a claim on an under-estimated insurance policy, you could be left having to cover any extra costs being the proportional difference between what you are covered for under your policy and the actual replacement costs.

Under-insurance can be applied to all claims, not just total loss claims. E.g. if you have a \$600k project and you insure it for \$300k, and you then have a \$100k loss you will only get \$50k since you only insured half the project.

**Note 1: If you are renovating or extending your existing home, you need to check the limitations of your home/contents policy. In most cases your existing policy will either cease entirely or instead severely limit the extent of cover afforded by the policy. Fortunately however, Contract Works insurance can be extended to compensate for this.**

**Note 2: Read your insurance contract and the terms and conditions carefully before purchasing. If you are unsure about the extent of cover ask the insurance agent to clarify it for you.**

### 5.3 Public Liability Insurance

Public Liability insurance covers you against claims for a third party's property damage or personal injury that arises out of your construction works. Both the owner-builder and the contractors are recommended to carry Public Liability insurance to cover them in the event that any of them cause damage or injury to another person as a result of their activities in the construction work. If the owner builder does not have public liability insurance they may face the risk of common law negligence claims for damages or personal injury. Note that many household insurance products do not cater for new building work – so check with your insurer before starting building.

For the owner builder to be liable it doesn't have to arise from their own direct actions. Since they are in charge of the project most liability claims will be their responsibility. Occasionally however where there may be very clear and obvious negligence by one of the contractors the liability claim may instead be directed at the contractor individually. In most cases the liability claim will be directed to the owner builder (or in some cases to both the owner builder and also the contractor as being jointly liable). For this reason it is important for the contractors to have their own insurance.

**Note 1: If you are renovating or extending your existing home, you need to check the limitations of your home/contents policy. In many cases your current policy may cease entirely. Even where this is not the case however it will still not cover Public Liability claims that arise from the construction work. This insurance will need to be obtained specifically for the project.**

### 5.4 Workers Compensation

Workers Compensation Insurance *is required by law* if an owner builder employs "workers" within the definition of the *Workers Rehabilitation and Compensation Act 1988*. Under section 97 of that Act, owner builders are treated in law the same as any other "employer" including accredited builders. Workers can include labourers on site who are paid wages. Owner builders will need to closely examine the proposed relationship with the persons working on their building project to decide whether it is one of a contract for services or employment. If in doubt consult an insurance expert.

Owner builders who are building their own homes should take out a workers compensation insurance policy for the building activity. Any sub-contractors employed by an owner builder may be deemed to be a worker of that owner builder. This could include builders, labourers and some sub-contractors. To ensure that the owner builder and all their workers are protected, a workers compensation insurance policy should be taken

out. Home owners doing extensions or renovations may find that their normal domestic workers compensation insurance policy does not cover building work.

Where tradespersons or contractors are employed to work on the property, such as plumbers, electricians and builders, you should obtain from each one a confirmation of what their insurance covers prior to commencement on site. This could be a certificate of currency from an insurance company, or a photocopy of the policy itself.

**Note** that for renovations of existing domestic buildings, the homeowner's house and contents insurance may neither cover the people working on the site, nor the new building work. Check with your insurer to see if you are covered. You are advised to discuss this with your insurance advisor.

As an owner-builder you should also consider insuring yourself against accident or sickness (accident and sickness insurance), especially if you have financial exposure such as a mortgage. An income protection policy will provide you with an income should you fall ill or if you are injured on site. Contact your insurer or broker to find the appropriate level of cover.

### Questions to ask:

1. What is the minimum coverage of a Public Liability policy? e.g. '\$5 million';
2. Is the insured value the owner builder construction price, or the full replacement value in the case of a total loss?
3. Does the policy cover the demolition costs in the event of a major loss?
4. Is adjacent property protection available with a contractor's policy?
5. Does the policy cover existing structures on the property? Prior to starting building work you should advise your house and contents insurer, as your existing policy might only cover minor renovation projects;
6. Does the policy cover the owner builder against negligence claims from contractors or tradesmen killed or severely injured on the work site?
7. If works have already commenced, is it still possible to obtain insurance?

**Note 1: Before any Owner-Builder work is commenced, contact your insurer to determine the appropriate level of cover if applicable.**

## 5.5 Consumer Protection

Your builder is legally required to provide certain warranties when performing domestic building work. Regardless of the terms of the contract the work must:

- Comply with plans, specifications and all legal requirements;

- ❑ Be completed within a reasonable timeframe;
- ❑ Consist of good and proper materials;
- ❑ Be fit for human habitation if constructing a house;
- ❑ Be performed with reasonable diligence.

Claims against these warranties can be made up to 10 years after the work was completed.

## 5.6 Subsequent purchaser protection

Owner-builders can be responsible for the building work for up to 10 years.

The statutory warranties are also applicable (as far as is reasonable) to work done by owner-builders, for the benefit of the immediate successor in title to (i.e. subsequent purchaser from) the owner-builder. That is, the owner-builder warrants that the work results in a dwelling reasonably fit for occupation as a dwelling.

## 5.7 Finance

The owner builder must be able to back the cost of their building work and most will need to borrow money. Many first homeowners have high expectations regardless of whether they can afford a large house with all “top of the range” appliances. However owner builders should not over commit to a large mortgage with the constant worry that a rise in interest rates will see them lose their dream home. When approaching your bank or financial institution for a loan to build they will usually require the name of the builder, so as you are going to build it yourself as an owner builder consider the following issues.

1. Are you experienced enough to complete the project within budget?
2. Is the house able to be sold if you run out of money before completion?

As the financial institution needs security on your home or proposed building project, the answer to these questions will affect the amount that is obtainable from these institutions.

The more experienced you are the better chance you have of getting a loan.

As you wish to build as an owner builder, be warned - most lending institutions will only advance 50% of the value of the home to an owner builder. (If you had engaged an accredited building practitioner you may be able to borrow as much as 95%).

Absolute Education is currently working with a home loan broker specialising in the Owner Builder Finance field. For further information please visit our web site [www.abed.com.au](http://www.abed.com.au) or call us on 1800 427 407

## Applying for a bank loan

Not all financial institutions will lend to owner builders. Those that do will want to see a clear and realistic proposal and the types of information they may wish to see will include:

- ❑ A list of the applicant's assets (property owned) and their liabilities;
- ❑ Details of their cost of living;
- ❑ The applicant's ability to make a financial contribution to the project.

Go to the meeting prepared with the right information, as the financial institution will want to look at hard facts about the design costs and drawings, detailed cost estimate of the project and verification of the building permit. Lenders claim that major problems encountered with owner builders is the cost blow-out – an underestimation of cost and overestimation of their own funds.

The financial body may insist that a fixed percentage of the estimated total cost be set aside to cover unexpected contingencies Applications are based on merit and funds granted will need to be made available at pre-determined stages of the construction activity.

## 5.8 Valuations

When you are building your own home organising finance is a complex task and the lender must be able to determine the final value of the completed property. When arranging a valuation, the lender will generally require the following information:

- ❑ as an owner builder, an estimate of construction costs, or if using a sub-contractor, a contract, tender or quote; and
- ❑ a written schedule of progress payments, to show how much money you will need as you build and works the owner intends to complete for each stage. This will assist the lender in assessing your cash flow;
- ❑ council approved plans and specifications and any conditions of approval. The Certificate of Likely Compliance may be also required;
- ❑ written details of work that is to be carried out by you as an owner builder, friends, family or subcontractors. This should include all trades. Highlight any works to be carried out at no cost by you or at a discounted rate by you or your family and friends. You will also need to supply a complete costing of works to be subcontracted to qualified tradespeople and copies of written quotes to be provided.

***If doing the actual building work yourself, the lender will also require:***

- ❑ Written details of where you intend to buy the building materials, the credit terms available and copies of any trade labour cost quotes already arranged;
- ❑ Evidence of your savings required to fund construction; a program of the stages when the lender will be requested to release the loan funds.

### **Avoid cash-flow pitfalls**

Many owner builders spend what savings they have on the wrong items at the wrong time and when a valuer inspects the property on behalf of a lender, they cannot recommend further progress payments.

All lending institutions advance loan funds through progress payments during the course of construction. Generally speaking, four progress payments are made. However, the lender will only advance funds as a percentage against completed work done; i.e. permanent construction improvements. The valuer cannot take into consideration frames and trusses, for example, purchased at a sale, if they are stored in the garage and not erected on the building site.

The owner builder then has no funds to pay the tradesman to erect those materials and now has a lender that will not advance funds to replenish money already spent, as the value is not in completed fixed work. This creates a cash flow dilemma and a stalemate and all work is stopped on the job while interest is still accruing daily with a monthly interest payment to be made.

## 6 Occupational Health & Safety (OH&S)

### 6.1 What is Occupation Health & Safety (OH&S)

The *Work Health and Safety Act 2012* strives towards providing a safe working environment for all workers and sets out the laws about health and safety requirements affecting most workplaces, work activities and specified high risk plant in Tasmania.

As an owner-builder, you must provide a safe working environment for yourself and any contractors. You must ensure the health and safety of people visiting or working on your work site.

**Note 1: The Work Health and Safety Act 2012 is based on the principle of duty of care and covers all workplaces nationally, including those of owner-builders.**

There is a general duty of care on the owner-builder to ensure the health, safety and welfare at work of all employees and others who come on to the workplace. The owner-builder can achieve this through:

- i. Ensuring that the worksite is in a safe condition, and ensuring safe entrances and exits;
- ii. Ensuring that there is safe use, handling, storage and transport of plant and substances;
- iii. Providing and maintaining systems of work, and working environments, that are safe and without risk to health;
- iv. Providing the information, instruction, training, and supervision necessary to ensure the health and safety of employees;
- v. Providing adequate facilities for the welfare of employees.

**Note 2: It is the owner-builders responsibility to provide contractors/workers with site induction training, which should cover all of the above mentioned points.**

### 6.2 Workplace Health and Safety & Induction Training (White Card)

The requirements for owner-builders in Tasmania are that an owner-builder must complete **BOTH** the owner-builder course and the work safely in the construction industry course.



## **CPCCOHS1001A Work Safely in the Construction Industry**

If you are building, renovating or extending, you must know how occupational health and safety legislation will affect your plans. As an owner builder (the 'principal') intending to do work yourself and also engaging independent tradespeople as required, you are responsible for ensuring your sub-contractors comply with minimum safety standards. In effect **you become the accountable person** as you have primary control over your building site ('the workplace') and therefore have the responsibility for health and safety.

The provisions of the workplace health and safety laws apply to owner builder work. The *Work Health and Safety Act 2012* came into force on 1 Jan 2013. Under that Act you are the Person Conducting a Business Undertaking (PCBU) and primarily responsible for workplace health and safety on your building site. There are various Codes of Practice which may apply to your site.

### **Owner builders and construction occupational health and safety (OHS) Induction Training (White Card)**

The construction industry involves people working in a dynamic and ever-changing environment. Hazards and risks change frequently on a site as construction work progresses and as workers move from project to project.

#### **What is the Construction OHS Code of Practice?**

The National Standard for Construction Work aims to protect persons from the hazards associated with construction work. The National Code of Practice for Induction for Construction Work supports that Standard. This Code of Practice provides guidance to persons working in the general and residential construction sectors on the types of induction training that may be needed to provide construction workers with an awareness and understanding of common hazards on construction sites and how they should be managed. Different types of OHS induction training may be required depending on the level of potential risk. The lowest level is the General Induction which provides persons entering the construction industry with a basic knowledge of requirements under OHS laws, the common hazards and risks likely to be encountered on construction sites and how these risks should be controlled.

#### **Does this Code of Practice apply to an owner builder?**

**Yes** - the Code is relevant for all persons involved in construction work, including persons with control of construction projects. Owner builders must comply.

#### **What legal status does the Code of Practice have?**

Tasmania has adopted a code of practice in 2009 and in 2011 it became mandatory. Infringement notices may be issued for non-compliance. Owner builders must undertake the General Induction to demonstrate that their safety and health systems are equal to the provisions in the Code of Practice. You're able to register and complete this course at the same time as you complete your Owner Builder Course with us.

In summary, the industry Code of Practice for Induction in the Construction Industry:

1. Gives practical guidance on how required standards of health, safety and welfare can be achieved in the construction industry;
2. Is mandatory;
3. In proceedings under the *Workplace Health and Safety Act 1995* and its regulations, a failure to observe the Code of Practice may be used as evidence that a person has contravened or failed to comply with this legislation.

### **Obligations of owner builders**

Principals and self-employed persons who exercise, or are in a position to exercise management or control over a workplace must ensure that so far as is reasonably practicable, any person at that workplace is safe from injury and risks to health.

A principal must not allow a contractor engaged by the principal or any person engaged by that contractor to carry out work for that principal at their workplace in a manner which the principal believed would place at risk the health and safety of any person.

### **6.3 Duty of care**

A duty of care is a legal responsibility. The general duty of care provisions is found in the *Work Health and Safety Act 2012*. General duties of care are central to the legislation, requiring all workplace participants to take practicable steps to ensure health and safety measures are met. Each person under a duty must satisfy it, even if other persons also have a similar duty. A person, who has control of a workplace, the access or egress to it, or the plant or substances in that workplace, must take all reasonably practicable steps to ensure the workplace is safe and that the plant or substances have no adverse effects on the health and safety of that workplace.

If you hire labour for wages or reward (as an employer) you must also be familiar with the safety requirements of the particular work being done (for example rules for working at heights, scaffolding etc.). You must take all reasonable steps to ensure compliance with minimum safety standards. Under the legislation the PCBU's duty of care also extends to the work of any contractors or subcontractors and the employees of those contractors or subcontractors engaged by the employer. This duty of care does not

diminish the duty of care imposed on the contractor or subcontractor, who is also an employer.

### **Person Conducting a Business or Undertaking (PCBU)**

PCBU means the legal entity that causes the work to be done. It is used instead of the term "employer" because it covers responsibilities to all workers and contractors on site. In a construction context, a PCBU can be a company, a sole trader (for example a self-employed person) or each partner within a partnership.

On a construction project the principal contractor is to be the main PCBU.

### **There can be more than one PCBU on a construction project.**

For example contractors with specific roles, such as plumbers or electricians, are PCBUs for the work they are undertaking on site. PCBUs have specific legislative responsibilities.

All PCBUs are responsible for keeping all workers on site safe, regardless of who employs them.

PCBUs may also be workers. For example a contractor working for a principal contractor will be a PCBU and worker.

### **The primary duties of a PCBU are:**

- ❑ The provision and maintenance of a working environment that is safe and without risks to health including safe access to and exit from the workplace;
- ❑ The provision and maintenance of plant, structure and systems of work that are safe and do not pose health risks (for example providing effective guards on machines and regulating the pace and frequency of work) the safe use, handling, storage and transport of plant, structure and substances (for example toxic chemicals, dusts and fibres);
- ❑ The provision of adequate facilities for the welfare of workers at work (for example access to drinking water, washing facilities and eating facilities);
- ❑ The provision of information, instruction, training or supervision to workers needed for them to work without risks to their health and safety and that of others around them;
- ❑ That the health of workers and the conditions of the workplace are monitored (for example dust, noise, traffic) to prevent injury or illness arising out of the conduct of the business or undertaking
- ❑ The maintenance of any accommodation owned or under their management and control to ensure the health and safety of workers occupying the premises.

A PCBU is also responsible for consulting with workers and other PCBUs.

## 6.4 Principal contractor

Each construction project valued at \$250,000 or more must have a principal contractor appointed.

This will either be the PCBU who commissions the project, or someone engaged by them as principal contractor.

Your [WHS Management Plan](#) should outline the duties of the principal contractor. These will include the duties of PCBU, for example, but are not limited to:

- Preparing, updating and implementing this WHS Management Plan, including all associated procedures;
- Identifying and observing all legal WHS requirements;
- Ensuring that all works are conducted in a manner without risk to workers as far as is reasonably practicable;
- Planning to do all work safely;
- Participating in the planning and design stages of trade activities;
- Identifying WHS training required for an activity;
- Ensuring workers undertake identified WHS training;
- Communicating and consulting with workers;
- Investigating hazard reports and ensuring that corrective actions are undertaken;
- Identifying all high risk work and ensuring safe work method statements are developed;
- Assisting in rehabilitation and return to work initiatives;
- Dispute resolution.

The principal contractor may also choose to delegate specific tasks to others who are named as having specific WHS roles and responsibilities but, as PCBU, retains ultimate responsibility.

**Note 1: Your WHS Management Plan should list the duties of contractors. This could include:**

- Fulfilling the duties of PCBU for their own operations**
- Identifying all high risk construction work associated with their activities and ensuring safe work method statements are developed and implemented.**
- Complying with the duties as listed under a worker.**

**Note 2: We recommend downloading the Guide to [Managing Safety in Housing and Construction](#) fact sheet available from our web site [www.abed.com.au](http://www.abed.com.au) or [www.worksafe.tas.gov.au](http://www.worksafe.tas.gov.au)**

## Protecting non-employees including family members

Work activity involving hazardous substances has the potential to harm members of an employee's family. Health and safety policies and procedures must ensure that employees are not bringing home hazardous substances from the workplace, such as contaminated dust or fibres on their work clothes. At workplaces where the family lives on site, for example, a house under construction by an owner builder, every owner builder has a duty to ensure that children, other family members and visitors are not injured or harmed by work activity and hazards that may be present.

Where hazardous substances such as paint stripper, solvents and rust removers, are stored in a work vehicle that may be parked at the family home, procedures should ensure that children do not have access to the substances. The system should include the provision of information on substances which may be harmful, proper storage in the vehicle to prevent spillage, the provision of locks to ensure that substances are secure, training on action to be taken in emergency and regular checks that safe work practices are followed. The same applies to plant such as power tools or hazardous substances that are taken to or left at the family home at the end of each working day.

A pamphlet ***Workplace Health and Safety on Residential Housing Projects***

[http://www.justice.tas.gov.au/\\_data/assets/pdf\\_file/0019/72433/Residential\\_ohs.pdf](http://www.justice.tas.gov.au/_data/assets/pdf_file/0019/72433/Residential_ohs.pdf) is available from Workplace Standards Tasmania (call the Workplace Standards Tasmania Helpline 1300 366 322) or via our website [www.abed.com.au](http://www.abed.com.au). It describes the safety standards that apply to your housing project and who is responsible for workplace health and safety, whether you are an owner builder or a building contractor. It also tells what happens where non-compliance exists and guides you to the relevant standards.

## 6.5 Managing your risks

An owner-builder has an obligation to identify and assess foreseeable hazards. If it is not reasonably practicable to eliminate the risk, the employer must take steps to control the risk. As an owner-builder you will need to develop a risk management plan that identifies risks to the health and safety of your employee's / contractors.

### **Workcover Tasmania responsibilities include:**

- Help avoid workplace injuries occurring;
- Enforce Tasmania's occupational health and safety laws;
- Help injured workers back into the workforce; and

- ❑ Manage the workers' compensation scheme by ensuring the prompt delivery of appropriate services and adopting prudent financial practices.

## 6.6 Warning about Asbestos and Other Hazardous Products

When doing home building, renovations or work around the home, you may come into contact with asbestos and other hazardous products such as lead or certain solvents.

Asbestos and other hazardous product can cause serious injury, harm and even death in certain circumstances if safety precautions are not followed. For some hazardous products the law sets out who can do work involving these products and how to handle and dispose of the materials.

Asbestos dust and fibres are known to be highly hazardous when inhaled, and can be released into the air when products containing asbestos are incorrectly handled, removed or transported for disposal.

- ❑ **Non-friable** asbestos is the most common form, usually found as cement sheeting (either flat or corrugated), vinyl floor tiles, water or flue pipes, or other asbestos-bonded products produced before 1980. If left undisturbed, non-friable asbestos presents no known health risks.
- ❑ **Friable** asbestos was used in pipe lagging, insulation and asbestos-backed vinyl floor tiles. This type of asbestos presents significant health risks if disturbed.

### Asbestos transportation and disposal

A licensed waste transporter can supply a plastic-lined skip/bin for disposing of asbestos. When the job is complete the plastic needs to be pulled over the top and sealed with duct tape or similar.

Only controlled waste handlers, registered by the Environment Protection Authority, can transport commercial amounts of asbestos (i.e. where a fee has been paid for removal). They must ensure that asbestos fibres are not released into the air. A list of approved controlled waste transporters and agents is available on the Environment Protection Authority's website [www.epa.tas.gov.au](http://www.epa.tas.gov.au).

**Note 1: Asbestos waste must only be disposed of at approved disposal sites. It should not be added to 'recycling' areas.**

**It is illegal to dispose of asbestos waste anywhere other than an approved disposal site. There are various fines in place and offenders may face prosecution.**

Metropolitan residents can dispose of asbestos at specific transfer stations or waste depots. It is recommended that you contact your local transfer station or waste depot for advice on disposal requirements.

### **Asbestos removal**

Many houses built before 1982 contain building products containing some asbestos. Exposure to asbestos dust can cause mesothelioma (fatal lung cancer) and asbestosis (a serious and painful lung disease).

The Work Health and Safety Regulation 2012 (WHS Regulation) provides for the licensing for asbestos removal work and asbestos assessor work. It also requires notification to Workplace Standards of asbestos work when results of air monitoring show the concentration of respirable asbestos fibres is more than 0.02 fibres/ml and before the demolition of a structure or plant in an emergency situation where asbestos is fixed or installed in the structure or plant.

The Work Health and Safety Act 2012 (WHS Act) imposes penalties on people who carry on work at a workplace without authorisation where the regulations require that work be authorised. Part 8.10 of the WHS Regulation require authorisation (in this case licensing) for certain asbestos removalists and asbestos assessors.

Many owner builders making repairs, renovation or maintenance are unknowingly disturbing asbestos. Millions of fibres are released into the home – an unacceptable risk to the owner builder, their families and subcontractors.

### **Asbestos products found around the home can include:**

- Flat or corrugated sheeting ("fibro" or asbestos cement (AC) sheets) with asbestos fibres embedded in the hardened cement matrix;
- Flexible building boards and some types of imitation brick exterior cladding;
- Linoleum, or hessian carpet underlay;
- Roof shingles;
- Lagging around heater flue pipes.

### **During any work that may release asbestos dust an owner builder must undertake:**

- Hazard identification;
- Control measures;
- Safe work measures;

- ❑ Competent trained persons to do the work – except for small quantities of sheet asbestos, it is compulsory for all other asbestos removal to be carried out by a licensed asbestos removalist.

A person who has control of a building, or structure containing asbestos has a duty of care towards any person who may enter that building, or structure. Division 9 of the *Workplace Health and Safety Regulations 1998* details the steps to be taken in relation to identification, risk assessment and duties:

- ❑ An asbestos management plan should be implemented;
- ❑ A building register should be created and regularly updated to record the location and condition of asbestos and every time work is done on it;
- ❑ The presence of asbestos and the risk in each workplace must be assessed by a qualified occupational health professional. If the asbestos is in good condition, it should generally be left undisturbed, but if it is damaged or deteriorating it may need to be removed. By law, this can only be done by a licensed asbestos removalist, not by owner builders.

Material containing asbestos should be labeled according to Australian Standards – AS 1216 (1995): Class labels for Dangerous Goods, and warning signs should comply with AS 1319 (1994): Safety signs for the occupational environment.

Make sure workers know about the asbestos management plan and are trained accordingly.

For more information about these specific safety issues, contact the Workplace Standards Helpline: Phone 1300 366 322 or (03) 6233 7657.

Generally, asbestos removal must be done by a licensed removalist, or **trained employees** of a licence-holder.

**Class B licence-holders are only permitted to remove non-friable asbestos** and must comply with a number of requirements, including:

- ❑ Appointing a nominated **supervisor** to oversee the removal work;
- ❑ Developing a **control plan** before the job;
- ❑ **Informing employees** in the area of the proposed removal work;
- ❑ Using **specific methods** for removal, waste containment and waste disposal;
- ❑ Using **signs and barricades**;
- ❑ Providing **decontamination** facilities;
- ❑ Providing **employees** with information, training, personal protective clothing and equipment, and medical examinations;



### **Only Class A licence-holders are permitted to remove friable asbestos.**

Class A licence-holders must comply with the same requirements outlined above for Class B licence holders, but must also implement a range of specific measures to carry out the work safely and control the risk, including using enclosures and always having the nominated supervisor on site. These are detailed in the OHS Regulations.

An asbestos assessor licence is required for air monitoring, clearance inspections and clearance certificates for class A removal work (friable asbestos removal work). (Clause 489 of the WHS Regulation).

Licensed asbestos removalists must ensure that a nominated supervisor is present at the site whenever friable asbestos removal work is being carried out and is readily available to attend the site for non-friable asbestos removal work.

### **Signage**

Presence of asbestos must be clearly indicated. This must be in the form of signage at the location of the asbestos or if not reasonably practicable, signage is required in the immediate vicinity.

### **Notification of asbestos removal work**

The licensed asbestos removalist must give written notice to Workplace Standards at least five days before licensed asbestos removal work is commenced. Notification is required to be made to Workplace Standards on a day that is not a Saturday, Sunday, or public holiday.

### **Five days' notice of asbestos removal work is not required and asbestos removal can be commenced immediately where there is:**

- ❑ A sudden and unexpected event, including a failure of equipment, that may cause persons to be exposed to respirable asbestos fibres, or
- ❑ An unexpected breakdown of an essential service that requires immediate asbestos removal work to allow the service to continue.

Where asbestos removal is required immediately, Workplace Standards must be notified: immediately by telephone on 1300 366 322. Then in writing within 24 hours after Workplace Standards is notified by telephone.

### **Notification of respirable asbestos fibres levels at more than 0.02 fibres/ml**

The licensed asbestos removalist carrying out the removal work must immediately notify Workplace Standards when respirable asbestos fibre levels exceed 0.02 fibres/ml in the removal area.

### **Notification of the emergency demolition of a structure or plant involving asbestos.**

In relation to a workplace, the person with management or control of the workplace must notify Workplace Standards immediately in writing after they become aware of the emergency and before demolition is commenced. In relation to residential premises, the person who is to carry out the demolition of the premises (the licensed asbestos removalist) must notify Workplace Standards in writing immediately after they become aware of the emergency and before demolition is commenced.

### **Notification of asbestos removal work where asbestos is required to be removed immediately**

Notification of asbestos removal work where asbestos is required to be removed immediately, the licensed asbestos removalist must telephone Workplace Standards on 1300 366 322 immediately and should provide the following information:

- Name of the licensed removalist;
- Address of the workplace where the asbestos is to be removed;
- Reason for the immediate need to remove the asbestos.

## **6.7 Hazardous Chemical Safety**

Workplace hazardous chemicals are substances, mixtures and articles which can cause harm due to the health effects from exposure and their chemical behaviour.

The manufacturer or importer of workplace hazardous chemicals is required to determine its classification under the Globally Harmonised System of Classification and Labeling of Chemicals (GHS).

This hazard classification determines what information must be included on labels and Safety Data Sheets.

Guidance of the classification arrangements for hazardous chemicals is available at [Safe Work Australia](#). This form can also be found on our web site.

Persons conducting a business or undertaking at a workplace (PCBU) must manage the risks associated with using, handling, generating or storing hazardous chemicals.

**These obligations include:**

- ❑ Keeping an up-to-date register with a Safety Data Sheet for each hazardous chemical labelling in accordance with the GHS;
- ❑ Emergency plans & procedures provisions for information, induction, training, and supervision control of risk;
- ❑ Health monitoring;
- ❑ Placarding in accordance with Schedule 13 of the regulations (where required)
- ❑ Notification where specified quantities are exceeded in schedule 11 & 15 of the regulations.

### **Lead in old paint finishes**

Purchasers of houses built before the 1970s who are considering owner builder renovations must be aware that many old paints containing lead and sanding and cutting will create lead paint dust that may affect members of their family, neighbours, builders and labourers. Lead is toxic and may affect the brain development of children. Paint test kits are available for purchase from leading paint stores.

## 7 Bushfire rules

### 7.1 Building in Bushfire Prone Areas

If planning to build or renovate, key steps include ensuring an appropriate building site location, using suitable building materials, ensuring proximity to independent water resources, managing the vegetation surrounding the building and clearing debris close to the building. It is also important to ensure your property is accessible for emergency vehicles and has a water supply for fire fighting.

It is recommended Owner builders complete the following to help reduce the risk of damage to homes in the event of a bushfire:

- ❑ Use building materials appropriate for the conditions and your Bushfire Attack Level (BAL);
- ❑ Remove any overhanging tree branches, take out shrubs over one metre high next to or below windows, keep grass short and clean up other debris near your building site or home that could easily catch fire to help provide some defensible space;
- ❑ Follow the step-by-step guide to protecting your home from fire by downloading the [Tasmanian Fire Service Fire Safety in Buildings PDF](http://www.fire.tas.gov.au) from [www.fire.tas.gov.au](http://www.fire.tas.gov.au)
- ❑ Ensure you have a Bushfire Survival Plan in place and practise it regularly;
- ❑ Get involved in community meetings about fire preparedness in the neighbourhood. Go to the CFA website for meeting details;
- ❑ If you have a full rainwater tank near your home, ensure it is accessible.

### 7.2 Bushfire Attack Level (BAL)

The aim of the residential building standard for bushfire protection is to improve the ability of a building to withstand a bushfire attack. This will provide greater protection for the occupants who may be sheltering inside while the fire front passes. A great deal of scientific modeling has gone into the standard. The following chart outlines how the baseline data, which is defined as a Bushfire Attack Level (BAL), determines the type of construction required.

The BAL takes into consideration a number of factors including the Fire Danger Index, the slope of the land, types of surrounding vegetation and its proximity to any building.

## Bushfire Attack Levels and corresponding construction sections within the new building standard

Bushfire Attack level (BAL)	Description of predicted bushfire attack and levels of exposure
BAL – LOW	There is insufficient risk to warrant specific construction requirements
BAL – 12.5	Ember attack
BAL – 19	Increasing levels of ember attack and burning debris ignited by windborne embers together with increasing heat flux between 12.5 and 19 kW m <sup>2</sup>
BAL – 29	Increasing levels of ember attack and burning debris ignited by windborne embers together with increasing heat flux between 19 and 29 kW m <sup>2</sup>
BAL – 40	Increasing levels of ember attack and burning debris ignited by windborne embers together with increasing heat flux with the increased likelihood of exposure to flames
BAL – FZ	Direct exposure to flames from fire front in addition to heat flux and ember attack

Ember attack and the temperature (radiant heat) of a bushfire not only threaten buildings and properties but are often unstoppable.

Bushfires burn at very high temperatures and the February 2009 fires has meant a revisit of the baseline data around radiant heat levels. It is important to be aware that loss of property due to bushfire is sometimes unpreventable

### 7.3 Bushfire Prone Area Construction Requirements

#### What is a Bushfire-Prone Area?

The *Building Regulations 2004* (as amended) define a "Bushfire-Prone Area" as:

- Land that is within the boundary of a bushfire-prone area shown on an overlay on a planning scheme map; and
- Where there is no overlay on a planning scheme map, or where the land is outside the boundary of a bushfire-prone area shown on an overlay on such a map, land that is within 100 metres of an area of bushfire-prone vegetation equal to or greater than one hectare.

#### What are the types of buildings affected?

Special construction standards apply to these types of buildings:

- ❑ A residential house or unit, whether detached or not (Class1a);
- ❑ Guest house style tourist accommodation (Class 1b);
- ❑ Flats, units or townhouses with sole occupancy units situated one above the other (Class 2);
- ❑ Residential buildings such as accommodation for a school, or the aged, or tourist accommodation such as a motel or backpacker's hostel (Class 3);
- ❑ Decks or non-habitable outbuildings associated with any of the other types of buildings mentioned above (Class 10a).

("Class" refers to the building classification system used in the Building Code of Australia).

## **7.4 What are the special design or construction standards that apply?**

The Building Code of Australia (BCA) is the law for all building work in Tasmania. It provides that for any new building work (including alterations and extensions) in a bushfire-prone area, the building work must comply with the requirements of Australian Standard AS3959 "*Construction of buildings in bushfire-prone areas*". There are extra provisions for design and construction, over and above the usual building standards, to minimise the risks to occupants should the building come under attack from a bushfire. There are graded "Bushfire Attack Levels" (BALs) depending on the level of risk. A building with a high BAL will require much higher construction specifications than a building with a lower level of bushfire attack.

Some examples of these special construction standards include:

- ❑ Fine mesh screens made of metal (bronze or stainless steel) fixed over windows, weepholes and vents;
- ❑ Timber shingle roofs forbidden;
- ❑ Eaves and timber floors enclosed;
- ❑ Timber posts, if permitted, treated to make them fire resistant;
- ❑ Doors and windows fire resistant;
- ❑ Non combustible or fire rated cladding.

Incorporating appropriate features or measures from the Standard into the particular building's design, will reduce the effects of ember attack and radiant heat, two of the main forms of bushfire attack.

All new dwellings (and Class 2 and 3 buildings) in bushfire prone areas must also have:

- ❑ A fire fighting water supply of 10,000 litres (this can include tanks, a dam, swimming pool or from a hydrant);
- ❑ An all-weather road of a suitable standard to give safe access to emergency services including fire fighting appliances. The required road is a single lane private access road with a minimum carriageway of 4m wide.

### **Do existing buildings need to comply with bushfire prone areas standards?**

No. Section 115 of the Act applies and it provides that any existing building that was constructed lawfully, complies with the law as of today. This means the construction standard of an existing building in a bushfire prone area does not have to be upgraded or modified to current BCA standards. There is no requirement to upgrade the construction standards of those parts of an existing building if they are not being altered. (Designers may wish to discuss simple ember protection measures with their clients as a voluntary measure.)

An existing building's road access does not have to be upgraded to current BCA standards e.g. to be a Class 4C road.

An existing building's fire fighting water supply does not have to be upgraded e.g. to meet BCA Tas Part 3.7.4.2 e.g. to install new water tanks or a hydrant.

### **New work on an existing building**

If there is new work on an existing building (additions or alterations that require a building permit) then only that new work has to comply with BCA provisions for bushfire risk mitigation e.g. construction provisions that are contained in AS 3959 appropriate to the assessed BAL level.

An existing building's road access and fire fighting water supply do not have to be upgraded to current BCA standards.

A building that is relocated to a new site that is in a bushfire prone area, is to be treated as a new building and made fully compliant with bushfire prone areas provisions and not treated as if it were an existing building on that site.

### **How do I know if my land or building is in a declared Bushfire-Prone Area?**

There will be mapping of bushfire-prone areas in planning schemes. If you are within 100m of more than 1 hectare of vegetation (including grass), you may be in a bushfire

prone area. Full details of the requirements are found in the Building Regulations, the BCA (including Tas Appendix) and AS 3959.

## **7.5 Who can perform a Bushfire Attack Level (BAL) assessment?**

Any competent building designer can determine whether a building site is in a bushfire-prone area and determine the appropriate Bushfire Attack Level (BAL). A building surveyor can then assess the designer's determination as part of their assessment process for issuing a Certificate of Likely Compliance (CLC). The designer should provide documentation on how they arrived at their conclusions. There is no requirement under the Building Act 2000 that the designer's assessment of the BAL be counter-signed or approved by the Tasmania Fire Service (TFS).

This process is similar to a building surveyor assessing the thermal efficiency of a design for compliance with the Building Code of Australia (BCA). If the submitted design does not comply with the BCA requirements for building in a bushfire-prone area, the building surveyor should reject it and the responsible designer will then have to modify the design.

See the current list of assessors accredited by the TFS on the Workplace Standards website. Go to: Accredited Bushfire Assessors.

## **7.6 Steps in consideration of bushfire requirements**

Put simply, there are three steps in the consideration of any site for a Class 1, 2, 3 or 10a building that might be in a bushfire-prone area:

1. Determine whether the site is a bushfire-prone area, using the definition in the Building Regulations 2004. This includes a bushfire-prone area shown on a planning scheme overlay map if such a map exists. (The Government is working with Councils to develop these maps.);
2. Determine the appropriate BAL for the site using AS 3959 Construction of buildings in bushfire-prone areas. This will normally involve a site visit;
3. Determine relevant construction requirements for the building from AS 3959 and road and water supply requirements from the BCA Volume One Appendix (Tas) or as provided in Tas Part 3.7.4.0 in Volume 2.

See also the Guide to assessing a Bushfire Attack Level on the WS website: Go to: Bushfire Attack Level assessment Guide.

### **Bushfire Hazard Management Plan, or a BAL Assessment?**

These requirements under planning and building legislation are different.



### **Planning requirements**

Planning schemes incorporating Planning Directive Number 5 – Bushfire-Prone Areas Code, include acceptable solutions for developments provided by persons accredited by the Tasmania Fire Service, which will have been incorporated into a Bushfire Hazard Management Plan.

“Bushfire hazard management plan” means a plan showing means of protection from bushfires in a form approved in writing by the Chief Officer of the Tasmania Fire Service”. This plan is a comprehensive bushfire risk management plan for the land in a bushfire-prone area. It may include a BAL assessment. Some examples of acceptable solutions for protection measures include:

- ❑ Adequate distances between buildings and bushfire-prone vegetation;
- ❑ Safe access arrangements for new subdivisions and habitable buildings, for fire-fighters and occupants;
- ❑ Adequate, accessible and reliable water supplies to protect lives and property during a bushfire; and
- ❑ Special provisions for vulnerable and hazardous uses in bushfire-prone areas.

### **Building requirements**

“BAL” means the Bushfire Attack Level as defined in AS3959 – 2009 Construction of buildings in bushfire prone areas as ‘a means of measuring the severity of a building’s potential exposure to ember attack, radiant heat and direct flame contact, using increments of radiant heat expressed in kilowatts per metre squared, and is the basis for establishing the requirements for construction to improve protection of building elements from attack by bushfire’. This assessment is a measure of the potential severity of exposure from a bushfire.

The following table exhibits the distinctions between preparing a Bushfire Hazard Management Plan, making a BAL assessment, and giving a Form 55 as a Certificate of a Specialist.

Activity	Legislation	Can be prepared by	Qualification required
<b>Bushfire Hazard Management Plan for development permission on a site</b>	Planning Directive Number 5 – Bushfire-Prone Areas Code	A person accredited by the Tasmania Fire Service	A person who has undertaken specialist training to gain a formal qualification (e.g. a five day course offered by the University of Technology Sydney)
<b>Giving a Form 55 (Certificate of a Specialist) for a BAL assessment for building work in a bushfire-prone area)</b>	Section 266 <i>Building Act 2000</i> . This certificate can be requested by the responsible designer or by the relevant building surveyor	A person accredited by the Tasmania Fire Service	A specialist with the qualifications as prescribed by the Director of Building Control's <i>Determination on Specialists or Other Persons</i> (as revised 28 November 2012)
<b>Assessment of the Bushfire Attack Level (BAL) of the particular building site</b>	Building Act 2000 and its Accreditation Scheme 2008.	An architect or a building designer who is competent to perform a BAL assessment	No extra formal qualifications or accreditation are required to perform a BAL assessment

## 8 Design and cost management.

### 8.1 Design & Architects

It is important that you have a clear vision of what you intend to build and what the budget for the project is. Once you have decided on what will be built, you should develop some basic diagrams and a document that will describe to an architect what it is that you actually want.

Before going to the Architect ensure that you have thought of everything and incorporated those ideas into your vision. From there the architect will be able to come back to you with a few design alternatives. However, keep in mind that the more alternatives that the architect comes up with the more expenses that will be incurred. The architect's fees may be based on a % estimated builders contract price, a negotiated fee or an hourly rate.

It is also a good idea to contact your local council and speak to them about your ideas or preliminary sketches prior to submitting the development application. This will save time and money if council is opposed to part or all of the proposed development.

**Note 1: Plan for the future, before committing to anything. Think of aspects such as the number of people living in the property or if you have to cater for people with disabilities. Planning for the future now will save on expensive additions in the future.**

**Note 2: If you do not have your own architect you can contact [Australian Institute of Architects](http://www.architects.com.au) Tel 1800 770 617 Email [contact.us@architecture.com.au](mailto:contact.us@architecture.com.au) who should be able to refer you an architect to in your area. See useful links section.**

### 8.2 Quantity Surveyor

One of the greatest problems that you will face as an owner-builder is determining how much your construction will cost. You can use the costing's and budget control spreadsheet available via our web site, however, we would recommend that you use the services of a qualified quantity surveyor to help you to more accurately determine the costs of the construction works. When estimating your costs you should closely monitor the following:

- ❑ Costs involved with consultants
  - Architect

- Engineers (structural and geo-technical)
- Surveyor
- Permit and application costs
  - Building fees (Application costs)
  - Owner-Builder permit Fees
  - Council Charges
  - Kerb and Gutter Bond/Deposit
  - Rates and taxes
- Insurance costs
  - Workers compensations
  - Contract Works insurance
  - Public Liability
- Material Costs
  - As per cost monitor sheet (allow for inflation)
- Equipment Costs
  - Purchase or Hire
- Labour Costs
  - Contractors
  - Your own labour (Only allow for as many hours as you can actually perform on a weekly basis)

**Note 2: Do not automatically choose the cheapest quote, the person with the cheapest quote may have a number of different projects on or may skimp on the quality of materials used. This may delay your works and cost you additional monies or cause disputes.**

**Note 3: Only enter into fixed price contracts. And try to negotiate a cheaper price from the chosen contractor before entering into the contract.**

### 8.3 Organisation

One of the most important building tips, is that you must be highly organised during all stages of the construction process including preparing to commence construction. Always check with Workplace Standards Tasmania by visiting the website at [http://workplacestandards.tas.gov.au/licensing/search\\_licence\\_databases](http://workplacestandards.tas.gov.au/licensing/search_licence_databases) that the electrical and plumbing contractors are licensed for the work and that the licence is current.

It's a good idea to keep records of quotes, contracts, licence details and correspondence relating to the building work. You may choose to keep a folder for written documentation such as quotes, contracts and invoices.

If you are to complete your construction on time and on budget you will need to use a building planner or diary to estimate construction stages and time frames. As an owner-builder, one of the most important tools that you will have is the building planner. A building planner will enable you see if construction is going according to schedule or where delays are happening. It will also allow you to see which if any trades overlap and can allow you to reschedule tradespeople and supply of materials if the project is running behind schedule.

**Note 1: Please note that this is only a guideline; all construction works have differing levels of complexity and different requirements that may not be covered by this guideline.**

**Note 2: If you are not a specialist in the area it is recommended that you do seek specialist advice before commencing any work as this may save you a significant amount of time and expense.**

It is important that you speak to your building surveyor about when and at what stages, inspections have to occur. As well, talk to council about specific regulations they may have such as hours in which you can work. Talk to your energy suppliers about what certification they require and if they are required to inspect any of the works being carried out. Contact TAS Water and find out about what is required for connection of water services and sewerage.

**Note 3: Call "dial before you dig" on 1100 to find out where any pipes are before any digging or excavation commences. This will save you time and any costs in the rectification of the pipes or lines. If there are pipes / lines, advise your contractors before they carry out any work.**

## 8.4 The Tasmanian Heritage Register

The Tasmanian Heritage Register is a register of those places in Tasmania that are of historic cultural heritage significance. These places are important to Tasmania and Tasmanians because of their contribution to our culture and society. They are also important as part of the cultural fabric of the State that is so much a part of our tourism industry. The Tasmanian Heritage Council maintains the Register under the *Historic Cultural Heritage Act 1995*.

### **Does the *Historic Cultural Heritage Act* restrict an owner's use of the registered property?**

It will not restrict it in any way if the use does not require modifications to the significant elements of the property.

### **What controls does it impose on building work?**

Being on the Heritage Register will have little or no effect on most property owners. All that being on the Register means is that the issue of the significance of the place will be considered when the time comes for any modifications to be made to the property. This will be considered as part of any normal building or development applications that are lodged with the local council. When thinking of doing some work on a registered property, it is advised that you consider contacting one of the Tasmanian Heritage Council Heritage Professionals for free on-site advice on heritage and conservation issues.

### **Do I need approval to make alterations and repairs to heritage buildings?**

You must also obtain the approval of the Tasmanian Heritage Council before undertaking work (including internal work) on a place which is on the Tasmanian Heritage Register. This is sought by lodging a "works application" at your local council, which is then passed onto the Heritage Council for assessment. In many cases a building permit will also be required. Council staff will answer any questions regarding the need for a planning permit, heritage approval and a building permit.

### **What happens if an owner applies to do work and it is not approved?**

The Heritage Council would like to be able to resolve issues that are causing real problems to owners by way of discussion and mediation, rather than by conflict and objection. For further information relating to buildings on the Tasmanian Heritage Register see contact details below:

#### **Tasmanian Heritage Council:**

**Level 6, 134 Macquarie Street, Hobart**

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**Website: [www.tasheritage.tas.gov.au](http://www.tasheritage.tas.gov.au)**

## 9 Building Tips.

### 9.1 Planning permit application

Check with the local council for Planning Permit requirements. You may be required to apply for a Planning Permit (sometimes called a Development Application) under the council’s Planning Scheme. This is different from a building permit and is concerned with permitted use and development within a municipality and local restrictions that may be applied to position, height, colours and other building features. It is important that you take this step early in the process, as approvals may take some time and may affect the details of the design of your building. If you use the services of an architect or building designer, they should advise you on planning matters and prepare appropriate documentation for a planning application on your behalf.

#### Differences between the Building Permit and the Planning Permit processes

- ❑ The Planning Permit process regulates the use and development of land by assessing proposals against council planning schemes and the State’s planning legislation. It particularly examines the impact of the proposed development or use on the surrounding area, whereas Building Permits focus on the proposed structure and its safety, health, energy efficiency and amenity.
- ❑ The Building Permit process regulates the construction, alteration and demolition of buildings by assessing proposed buildings and structures and alteration work against the requirements of the Building Code of Australia (BCA).

#### Arrange your contractors and materials before starting work

Contact contractors and suppliers and organise a time frame for them to complete the work and for suppliers to deliver materials. Ensure that materials are delivered only as they are required as unnecessary supplies can delay tradespeople from completing work and can cause safety risks. The following table contains contractors and materials that may be required:

<b><u>Contractors</u></b>	<b><u>Materials</u></b>
1. Surveyor	• Sand, gravel and filling
2. Engineers (where necessary)	• Bricks
3. Demolition	• Hardware
4. Excavator	• Concrete
5. Electrician	• Timber
6. Air Conditioning	• Roofing materials
7. Plumber & Drainer	• Windows, doors and other joinery
8. Gasfitter	• Roller Doors

<ul style="list-style-type: none"> <li>9. Concreter</li> <li>10. Carpenter</li> <li>11. Bricklayer</li> <li>12. Waterproofer</li> <li>13. Plaster (internal linings)</li> <li>14. Roofer</li> <li>15. Tiler (wall and floor)</li> <li>16. Floor Sander</li> <li>17. Painter</li> <li>18. Fencer</li> <li>19. Insulator</li> <li>20. Alarm System</li> <li>21. Fire Safety System</li> </ul>	<ul style="list-style-type: none"> <li>• Wallboard and Plasterboard</li> <li>• Kitchen</li> <li>• PC Items, i.e. Toilets, Basins, etc.</li> <li>• Paint</li> <li>• Light Fittings</li> <li>• Tiles</li> <li>• Insulation (wall &amp; ceiling)</li> <li>• Fire Safety Alarms</li> <li>• Security Alarm</li> </ul>
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**Note 1: You will need to speak with your tradespeople and suppliers to ensure that materials are delivered when your contractor is available to do the work.**

## 9.2 Site Preparation and Set Out

Before commencing any work check council regulations. All sites require that a site toilet be provided and necessary footpath crossings. You may also be required to arrange a temporary supply of electricity with your electrician and amenities for your workers / contractors.

Remove anything from the site that may prevent or slow the building work. Have your surveyor organise the set out of the site for you. You can also discuss the site levels and set out with the surveyor.

Ensure that a surveyor, concreter or someone with appropriate experience completes the set out. Check distances to boundaries (commonly called 'clearances') and ensure these are correct, as the building certifier will check them when the footings are inspected, so it is important that the site is set out correctly.

**Note 1: Remember the two most important rules the set out must be "Square and Plumb".**

**Note 2: It is very important that the set out is completed accurately, if errors are made it could lead to expensive works to rectify the problem.**



### 9.3 Plumbers – Pipes and Drains

Ensure that all floor waste holes, pipes and drains have been installed before progressing and ensure that the plumbing permit authority has inspected the waste pipes before concrete is poured.

As plumbing is a specialist trade all plumbing works need to be carried out by a licensed plumber. Check with [Workplace Standards](#) to ensure that the plumber holds a current license for the plumbing trade.

The plumber needs to install all the pipes that will be under the flooring of the house. Also discuss with the plumber as to when drains should be excavated, laid and backfilled. It is possible he may wish to do this after the floor brickwork or at some other stage.

**Note 1: Ensure all pipes are pressure tested before internal linings are fixed, this will save expensive rectification work at a later date.**

**Note 2: Council inspections may be required before any plumbing / pipe works are covered.**

### 9.4 Excavations

It is important that you employ a specialist excavating company. Footings and floor slabs should be designed to comply with Australian Standards. The building surveyor will often require structural details including engineer's reports.

Footings and / or piers should be poured at this time. Piers often need to be constructed separately to footings. Check with a structural engineer to see if this is necessary.

Where excavation is necessary for your site, it is recommended that you should seek the services of a specialist excavator. Mistakes made during excavation can often lead to additional concrete to fill the excavation and as such additional costs.

**Note 1: Don't leave excavations open to the elements for any longer than necessary. This is due to the costs associated with rectifying cave-ins.**

**Note 2: If you have not contacted dial before you dig or are still unsure where your pipes or telephone lines are get your contractor to contact 'Dial before you dig'. This will minimise the risk of damage to pipes or communication lines that are expensive to repair.**

## 9.5 Drainage

Where drainage systems are required ensure that the proposed drainage system will convey surface water to the appropriate outfall and that any water avoids entry to the building. Check with your local council to ensure that water is discharged to the appropriate point. The drainage system should be constructed in accordance with Australian Standards and the Plumbing Permit Authority.

### Land subject to flooding

Flood damage to your home or premises can be devastating. If land is prone to flooding, the design of a proposed building will have to comply with the *Building Regulations 2004* (all habitable rooms of a building must be a certain height above the highest known flood level). To find out the flooding risk in your area, you may need to ask a number of people, as it is usually not part of the standard information that you get when buying land. Check with the following sources:

- ❑ The *Building Regulations 2004*, reg. 12, lists river basins for which flood maps have been made;
- ❑ Council planning schemes may tell you if you live in a flood prone area;
- ❑ Council staff or elected members may have local knowledge of when flooding may have occurred in the past;

### Neighbours or people who live in the area;

- ❑ Local newspapers;
- ❑ Insurance companies who do business in the area.

**Note 1: Stormwater drainage diagrams should be generated by a building surveyor designer Hydraulic Engineer and need to be approved by council.**

## 9.6 Concrete Slab

In preparation for the pouring of the concrete slab you should ensure that the site is clear so that concreter has adequate site access. Before pouring of the concrete slab you may need an engineer's report or onsite inspection, you may also be required to supply the engineers report to your council before commencing work.

Concrete is commonly used for footings, slabs and for mortar for bricklaying. Concrete should meet the Building Code of Australia standards.

- ❑ Have a minimum grade as specified usually 20 Mpa for 'slab-on-ground' type constructions and footing, and 25 Mpa or higher for suspended concrete. (Mpa is

an abbreviation for Mega Pascals. Mpa is a metric measure of pressure used to measure the concrete's load capacity.)

- ❑ Do not have water added on-site to pre-batched deliveries – orders should have required 'slump' (slump is a standard test on wet concrete which gives an indication of the 'workability' of the concrete)

Allow the concreter to organise his own materials, keep any docket or documents related to the supply of the concrete and ask for concrete test results.

Concrete is commonly used for footings, slabs and for mortar for bricklaying. Concrete should meet the Building Code of Australia standards (see appendix for appropriate standard):

- ❑ Have a minimum grade as specified usually 20 Mpa for 'slab-on-ground' type constructions and footing, and 25 Mpa or higher for suspended concrete. (Mpa is an abbreviation for Mega Pascals. Mpa is a metric measure of pressure used to measure the concrete's load capacity.)
- ❑ Do not have water added on-site to pre-batched deliveries – orders should have required 'slump' (slump is a standard test on wet concrete which gives an indication of the 'workability' of the concrete)

Your concrete slab should not be allowed to dry too quickly. The curing process is extremely important, Curing is the process of controlling the rate and extent of moisture loss from concrete during cement hydration. It may be either after it has been placed in position (or during the manufacture of concrete products), thereby providing time for the hydration of the cement to occur. Since the hydration of cement does take time – days, and even weeks rather than hours – curing must be undertaken for a reasonable period of time if the concrete is to achieve its potential strength and durability. Curing may also encompass the control of temperature since this affects the rate at which cement hydrates.

Curing is designed primarily to keep the concrete moist, by preventing the loss of moisture from the concrete during the period in which it is gaining strength. Curing may be applied in a number of ways and the most appropriate means of curing may be dictated by the site or the construction method.

Curing by preventing excessive loss of moisture from the concrete: either by:

- ❑ Leaving formwork in place;
- ❑ Covering the concrete with an impermeable membrane after the formwork has been removed;
- ❑ By the application of a suitable chemical curing agent (wax etc);

- ❑ Or by a combination of such methods such as General, Impermeable-Membrane Curing, or Water Curing.

**Note 1: Unless you are an expert in the area do not attempt this. You can contact the Cement and Concrete Association of Australia ([www.concrete.net.au](http://www.concrete.net.au)) for referral to a specialist.**

**Note 2: The slab should not be allowed to dry too quickly as this may cause cracking and in some cases structural faults. In hot weather the owner-builder should contact a concreter for specialist advice.**

## 9.7 Vapour Barrier and Reinforcement

The vapour barrier consists of polythene sheets laid over the entire area where the slab is to be laid. All penetrations such as plumber's pipes should be secured through the membrane. The Building Code of Australia requires a vapour barrier to be installed under slab-on-ground construction and that the vapour barrier has a nominal thickness of 0.2 mm. The vapour barrier should be medium impact resistant so that the vapour barrier is not damaged.

The installation of the vapour barrier must not lap less than 200 mm at all joints and the vapour barrier must be taped (duct tape no less than 50mm in width) or sealed with a close fitting sleeve around all service penetrations.

Use of a specialist concreter will ensure the membrane is placed in the correct position and it is not damaged. If the vapour barrier is punctured ensure that it is repaired with additional polyethylene film and tape before concrete is poured.

During construction, mandatory inspections are carried out by a qualified Building Surveyor after each applicable notification stage is completed.

The mandatory notification stages that your Building Surveyor may require to inspect are as follows:

- ❑ Covering in the foundations; and
- ❑ Pouring of structural concrete; and
- ❑ Cladding or building in the structural frame; and
- ❑ Completing the building work.

**Note 1: After steel mesh has been installed and the job is ready to pour, a building surveyor's inspection may be required before the concrete is poured.**

## 9.8 Framing

One of the important decisions that you will have to make as an owner-builder is that of what type of framing method you will use in the construction process. The most common framing methods for construction are:

- ❑ Timber framed construction;
- ❑ Metal framed construction.

**Timber framed** construction relies on the use of timber products for the sub-floor frame, floor, wall and roof to support structural loads. Timber is used in conjunction with other products such as fibrous cement, metal or plastic sheeting or brick. Where brick is used for a brick veneer construction, the brick wall is connected to the frame with metal ties.

**When using timber for the construction method you should consider the following:**

- ❑ Light weight;
- ❑ Can be used with all types of floor construction;
- ❑ Materials easily available;
- ❑ Less trades are involved then if using other methods; and
- ❑ Location.

**Steel framed** construction relies on the use of metal products for the sub-floor frame, floor, wall and roof. As with timber framing a variety of finishes can be used.

**Note 1: Ensure that metal frame is earthed properly for safety reasons.**

### Floor Framing

Your carpenter will place the bearers, then floor joists. Once this is done ensure floor frame is straight and level. If this is not done it could lead to irregularities that may be difficult to fix.

It is easy to insulate beneath your floor at this stage.

Before flooring is fixed check that bearers are resting on the piers and no gaps are present. Ensure joists are fixed tightly to the bearers. This will save you from fixing squeaks at a later stage.

**Note 1: Building Services Inspection may be required prior to the placement**

## 9.9 Wall frames and Roof Trusses

You should consider the use of prefabricated wall frames whether timber or metal framing method is used. This will save time and simplify the job. Wall frames need to be constructed in accordance with Australian Standards.

It is recommended that prefabricated roof trusses be used. They are designed and engineered to suit spans, roof coverings and loadings. The supplier will detail spacing and placement and supply all associated hardware such as bracing and triple grips for fixing.

### Windows and external doorframes

Fix window frames as soon as possible and ensure that flashings are used. Co-ordinate the installation of windows and doors with your bricklayer.

### Walls – Bricklayer

Building the brick walls for the house is one of the largest tasks that will be undertaken in the construction process. It is recommended that you leave this up to a specialist i.e. a bricklayer.

Ensure the correct windows are purchased and installed correctly in accordance with the energy efficiency design.

The majority of modern houses built are built using a brick veneer (masonry veneer) construction. If the owner-builder wants to estimate how many bricks are necessary, the average single thickness brick wall needs 60 bricks per square metre. The owner-builder can make the estimate based around whole bricks, allowing 10mm for each mortar joint. Then you will only need to contend with half bricks, which may be purchased.

An area where the owner-builder may be able to help the bricklayer in is the preparation of the bricks; a common requirement is that bricks may need to be cut in half before laying. To cut a brick, mark the line in chalk, using a brick bolster or chisel and heavy hammer, cut groove around the brick. On a soft base – sand or lawn, a hefty whack will give a clean break in the brick.

The owner-builder needs to ensure that as the bricklayer lays the bricks, that the bricklayer leaves a 25mm (min) cavity between the brick wall (masonry leaf) and the closest portion of the wall frame, for services, insulation or other elements located in the cavity.

Where timber frame is used for the framing method, ensure the bricklayer leaves adequate space for timber shrinkage. For single storey construction this is usually 10mm

below any window frame sill and door frame sill, and 10mm below roof framing and or eave-linings.

### **9.10 Roof Guttering – Plumber**

After frame and fascia are completed, the plumber is required to fix the guttering before the roof is covered. Valley flashing should also be installed. The plumber should make sure that the guttering falls to the position of the downpipes. Plumber should also do a “rough in”, which relates to fixing off hot water and cold water services and drainage points in the wall.

Where gas is to be used, it is important to contact your gas provider to discuss the rough in and your final connection to the main system.

If concealed gutters are used no fascia is required as the gutter and fascia’s are combined and are fixed by the plumber.

### **9.11 Roof Covering**

Ensure that any roof coverings are fixed according to manufacturers specifications that should be available from your supplier.

### **9.12 External doors – Carpenter**

Carpenter can fit external doors. Eaves should be lined and the sub floor access door fitted.

### **9.13 Wiring – Electrician**

Contact your energy supplier with regard to electricity supply, Telephone Company for the provision of supply pipes in the slab and a gas supplier for supply of gas services before the pouring of the concrete.

Your Electrician will place the lighting and power cables. These should be installed according to the initial plan. Electricians also usually install your telephone cables, see below.

### **9.14 Telephone**

Contact your Telephone Company and advise them of your requirements so that pre-cabling can be done. If an electrician is installing cabling for telephone or other related systems ensure they hold the appropriate licenses.

## 9.15 Gas

Your Gasfitter will place the gas pipes to the locations of the appliances.

## 9.16 Wet area flashing for Bathroom, Laundry and kitchen

Remove all debris and mortar deposits. Ensure that the contractor uses an accredited water-proofing system. This process is extremely important as it has one of the highest failure rates in new buildings and is very difficult to fix.

Flash all internal angles formed between the floor and the walls and to shower uprights. With concrete floors the full shower base should be sealed. On particleboard the whole bathroom should be sealed. The waterproof membrane that you select should be flexible enough to allow for normal movement in timber framed structures. It should be strong enough to resist any damage during installation of the floor surfacing material and be suitable for bonding with flexible adhesive.

**Note 1: You also need to ensure that a certificate from the waterproofer is obtained as this may need to be provided to the building surveyor.**

**Note 2: Contact your building surveyor to determine if you need to organise an inspection of all wet areas prior to internal linings being installed.**

## 9.17 Wall linings

Wall insulation should be done after bricks have been placed but prior to any linings being installed.

## 9.18 Internal Linings – Plasterer

Ensure all tradespeople have completed their work correctly and according to their contracts, as any errors not detected may lead to expensive rectification work.

Ensure all trimmings for fittings have been installed and that walls are straight, power and light points are in the right positions and plumbing points are placed correctly. Ensure that wall cavities, vermin wire and wall ties are clear of mortar.

Your Plasterer can now proceed fixing the linings. Ensure that all joints are backed with either studs or noggins or installed according to manufacturers specifications.

**Note 1: The wall must be straight and cornices straight and even.**



## 9.19 Joinery and fix out – Carpenter

Carpenter can install all internal doors, kitchen and moldings along with any extra joinery as required.

## 9.20 Wall and Floor tiling

The owner-builder needs to get an experienced tiler to inspect the area to be tiled to ensure the area is suitable for tiling. It is recommended that a minimum of two months be left before fixing tile coverings to protect against shrinkage of concrete. It is also important that where the area to be tiled exceeds 16m<sup>2</sup> that appropriate expansion joints be used.

Check that all joints and junctions are watertight in and around the showers. If not watertight, leakages can cause superficial damage and in some instances cause structural damage. Tiles are not waterproof. They rely on the waterproofing system behind them.

Joints must be straight and even. Tiler must use high quality adhesive and it must be used as specified by supplier. Grouting to the joints must be finished to a high standard to prevent any leakages.

## 9.21 Painting

Painting is an important decision for the owner-builder to make and can make a huge impact on the overall finish to your construction. It is advisable to spend a little extra and get an interior designer to come in and make some suggestions about the colour scheme and possibly which paint finishes will suit your construction works. For instance you may consider a 'feature wall' and have a sponge effect or suede effect. Little touches like these can make all the difference and can add to the value of your home.

Remember that any imperfections on the surfaces of walls and ceiling should be fixed, any nail holes filled and sanded and moldings secured before painting. Do not use high gloss paint on plasterboard surfaces, as any minor imperfections will be seen. Ensure that high quality paint is used and that it is used according to manufacturers' specifications such as ensuring consistent colour throughout paint and correct application.

For more information and tips on painting you can visit [www.dulux.com.au](http://www.dulux.com.au) that has a tool that allow you to experiment with colour schemes and calculate how much paint will

be needed. You can also visit [www.bristol.com.au](http://www.bristol.com.au) for tips on colour schemes and they also offer a helpdesk facility where you can email an expert with a question.

**Note 1: Ensure that after the painting is completed that additional paint is stored so that any damage to paint work during final fit out can be fixed easily.**

**Note 2: Make sure the painter uses drop sheets to prevent spillages on expensive fittings and brickwork.**

## 9.22 Final Fit Out – Plumber

The plumber will fit wastes to the Basins, sink tubs, and showers. Taps will be fitted and hot water connected.

**Note 1: Ensure down pipes are fitted correctly and sewer connected. The stormwater drains should be connected and inspected by council.**

## 9.23 Final Fit Out – Electrician

Installation and fixing of switches, power points, etc, should be finished. The electrician will connect smoke detectors and any alarm.

**Note 1: The electricians work needs to be inspected and tested. Application to connect needs to be done by your tradesperson, before electricity supply is connected.**

**Note 2: If down lights are fitted, do not cover transformers with insulation due to fire risk.**

## 9.24 Finish up

Insulate ceiling cavity after electrician has completed all work. Any gaps in the insulation will cause high energy leakage.

If any rubbish has not been removed as work has progressed remove all rubbish before finalising final fittings and landscaping.

Finalise landscaping. Ensure any paving falls away from the house and ensure that water drains into storm water system.

Install any extra fittings such as garage doors, fly-screens and security doors etc.

**Note 1: All construction work must be built in accordance with the Building Code of Australia to ensure that your construction will be fit for occupancy for yourself and any future owner.**

**Note 2: This has been provided purely as a guide and it is recommended that where you are not a specialist in the area that you seek specialist advice before starting any work.**

## 10 Preventing and Resolving your disputes

### 10.1 Guide to Standards and Tolerances 2007

Many residential building disputes arise due to differing views on the quality of work and what is a reasonable standard of construction. This can happen when the agreed standard and scope of work is not detailed in the contract or by legislation.

The *Guide to Standards and Tolerances 2007* is a publication that gives all parties to a residential building work contract the certainty required to determine whether or not an item is a defect. This Guide has been developed by industry experts to:

- ❑ Assist building practitioners to construct quality homes and prevent disputes;
- ❑ Facilitate the resolution of domestic building disputes;
- ❑ Clarify areas of quality and standards that are not prescribed in legislation, regulatory building standards or policy.

This valuable resource tool of 56 pages was prepared by representatives of the building industry, professional associations, regulators and consumer groups. The Tasmanian Government supports the use of the Guide. The Guide is also used in Victoria, New South Wales and the Australian Capital Territory. This means that builders that work in more than one State or Territory can apply the same uniform standards across those jurisdictions.

[CONTACT Workplace Standards](#) to obtain an electronic copy of the *Guide to Standards and Tolerances 2007*

### 10.2 Dispute Prevention

It is essential that you should obtain independent legal advice for further details on contractual matters, or the meaning of specific provisions of a particular contract. In Tasmania there are no "cooling off periods" for building contracts and no building contracts dispute tribunal. Disputes may have to be settled by arbitration or legal action, so it is wise to try to avoid problems before they arise. Standard Contracts are available for purchase from professional bodies and industry associations.

One of the owner-builder's main roles is to manage the relationship they have with the contractors and other employees. As you are taking on the role of the builder you will need to make conflict prevention and resolution one of your highest priorities. Some important tips that will help you minimise disputes are:

- ❑ Most importantly ensure that the electrical and plumbing contractor holds a current and valid contractor's licence for the work they are carrying out;
- ❑ Where required and even where possible ensure that you have written contracts with your sub-contractors that specify exactly what is expected, what the payment conditions are and the expected time frame works will be completed in;
- ❑ Be courteous and respectful to contractors, remember they are the specialists and are critical to the completion of your project. Gaining the co-operation of your contractors will go a long way to ensuring that the work is completed correctly and on time;
- ❑ Leave contractors alone to carry out their work. When work is to be inspected organise a time with them so that they are not disturbed during their work. However, you are the builder and ultimately responsible;
- ❑ Specify what materials are to be used in the contract so that you can avoid disputes with the contractor as to the quality of the materials that are being used. Having this written down avoids any ambiguity;
- ❑ Research the materials / fittings and work to be completed by the tradesperson. This will show that you have an understanding of the materials \ fittings or work to be completed. However, do not try to intimidate the tradesperson with your knowledge. Remember, if you have chosen your tradespeople correctly, that they are the experts;
- ❑ Make payments promptly and within the specified time frame as per the schedule of payments. If you have any outstanding issues raise them with the contractor as soon as possible and make payment promptly when issue has been resolved.

### **10.3 Resolving your disputes**

One of the most difficult tasks that an owner-builder will need to tackle during the construction process is having to resolve disputes with contractors. As an owner-builder you may have to resolve disputes that relate to:

- ❑ Materials used by contractors;
- ❑ Quality of workmanship;
- ❑ Incomplete work; and
- ❑ Unlicensed or uninsured work.

As soon as there are any problems or concerns with a building project, or work done by a tradesperson, write them down. Record details of the problems, take photographs where possible, and then approach your sub-contractor or tradesperson. Talk reasonably and try to negotiate a solution. Where the dispute is not resolved, or to confirm your agreement with the builder/tradesperson, note the details of your conversation and/or agreement in a letter then file a copy for your own records and send the other party a copy by registered post.

In the event that there are any further problems or that the matter is not resolved this documentation is admissible and recognized by the court and/or other authority. It may also help to have an alternative builder or qualified tradesperson inspect the work or give an assessment of the situation and document the report

Your ability to resolve these disputes can affect the success and completion of the construction works in a timely manner. Resolving any disputes in a timely and efficient manner must be your highest priority if you are to finish construction on time and on budget. A number of methods to help you resolve your disputes include:

- ❑ Speak with the contractor on site and list the issues that you feel are in dispute. Give the contractor a chance to respond to any claims;
- ❑ Put the issues in writing to the contractor, address only issues that relate to the work that in his scope of works. The letter should contain;
  - Address the relevant issues.
  - List what you see as a reasonable outcome.
  - Give him a time frame to come to a resolution to have the issues rectified in.
  - Send the letter via **fax** or **registered post**. Keep a copy of the letter and the confirmation slip that is gained from successful delivery of the letter.
- ❑ Another place to obtain assistance might be the Trade Association or Organization that the contractor is a member of. A list of these organizations and their contacts are provided under our Advice/Builders and Tradesman's Licences section of the website;

### **If you have a complaint about a practitioner**

Accredited Building Practitioners are typically proud of their professionalism and ethical standards, but sometimes their clients, or members of the public, may have concerns about their conduct or ability.

If you have such concerns, you should **discuss them with the building**. If you are not satisfied or you do not wish to discuss the matter with them further, you can seek advice or assistance from Workplace Standards. There is a formal complaint mechanism.

Disputes relating to the application, compliance or effect of any provision of the Building Regulations 2004 should be made to the Resource Management & Planning Appeals Tribunal.

Contact by phone: 03 6233 6464

Contact by email: [rmpat@justice.tas.gov.au](mailto:rmpat@justice.tas.gov.au)

### **If you have a complaint about an Architect**

Complaints about architects should be made to

**Workplace Standards** (If you wish to lodge a complaint under the Building Act)

#### **Board of Architects of Tasmania**

Royal Engineers Building

2 Davey Street

HOBART TAS 7000

Tel: (03) 6234 8188

Fax: (03) 6234 2216

email - [gharper@engineersaustralia.org.au](mailto:gharper@engineersaustralia.org.au)

**Note 1: The best method to resolve the dispute is through self-help it will avoid any lengthy delays in work being finalised or the delay of works by other tradespeople.**

## 11 Security of Payment Legislation

### 11.1 Entitlement to Progress Payment

The Tasmania Building and Construction Industry Security of Payment Act 2009 entitles a person who does building or construction work, or supplies goods or services for building or construction work, to recover progress payments for work done and goods and services supplied. This person is called the Claimant.

A progress payment becomes due and payable on the date nominated in the construction contract, or if not clear, the last day of the month in which construction work was carried out (or the related goods and services were first supplied).

### 11.2 Payment Claim

A person who does building or construction work, or supplies goods or services for building and construction work under a construction contract can ask for a progress payment by making a Payment Claim. The Payment Claim must:

1. Identity the works or services to which the progress payment relates;
2. Indicate the amount of the progress payment;
3. State that the payment claim is made under the Security of Payment Act by using words such as: "this is a claim made under the Building and Construction Industry Security of Payment Act 2009".

For more information about making a claim visit

[http://workplacestandards.tas.gov.au/resources/law/security\\_of\\_payment/making\\_a\\_claim](http://workplacestandards.tas.gov.au/resources/law/security_of_payment/making_a_claim)

### 11.3 Payment Schedule

A person on whom a payment claim is served (called the Respondent) may reply to the claim by providing a Payment Schedule to the Claimant. A Payment Schedule must identify the Payment Claim to which it relates and must include the amount of the payment, if any, that the Respondent proposed to make (the Scheduled Amount). If the Scheduled Amount is less than the amount claimed in the Payment Claim, all reasons for this difference must be given.

If the Respondent does not respond with a Payment Schedule within the required time, the whole amount claimed becomes payable and an application may be made to have the claimed amount become a judgement debt.



## 11.4 Decision by the Claimant

After they receive the Payment Schedule, the Claimant must decide whether to accept what the Respondent has offered to pay (and their reasons for this offer) or to have their claim adjudicated.

## 11.5 Adjudication Application

If the Claimant decides to take their payment claim to adjudication, their application must:

- Be in writing;
- Be made to one of the Nominating Authorities (NA) authorised in Tasmania (Click [here](#) for a list);
- Lodged within the time limits required by the Security of Payment Act;
- Identify the Payment Claim, and the Payment Schedule (if any) to which the application relates;
- Pay the application fee of the NA;
- Include any submissions that the Claimant wishes to include.

## 11.6 Adjudication Response

After receiving a copy of the adjudication application, the Respondent has the right to expand upon the reasons given in the Payment Schedule.

## 11.7 Adjudication Decision

After the NA has appointed an independent adjudicator and all documents relevant to the application have been received, the adjudicator will assess all the information. The adjudicator may choose to hold a conference between the parties, to carry out an inspection of work or to request further documentation.

## 11.8 Determination

The adjudicator will make a determination as quickly as possible, and in any case, must make their decision within 10 business days after the date on which the application for adjudication was lodged, unless the Claimant and Respondent have agreed on a longer time.

## 11.9 Payment of the Adjudicated Amount

If the adjudicator has determined that an amount needs to be paid by the Respondent to the Claimant, that amount must be paid within 5 business days of the date of the determination, unless the adjudicator has specified another date.

## **11.10 Non-payment of the Adjudicated Amount**

If the Respondent fails to pay the whole or part of the adjudicated amount, the Claimant may then ask the NA to provide an adjudication certificate, to take to a court registry to be enforced by the court staff as a judgement debt.

The Claimant also has the right to serve a notice on the Respondent stating that they will suspend carrying out of construction work (or supplying goods or services) under the construction contract.

## **11.11 The legislation**

For further information regarding the Building and Construction Industry Security of Payment Act 2009 visit <http://www.thelaw.tas.gov.au>

## 12 Maintaining your property

### 12.1 General Maintenance

- ❑ If defects are found contact the contractor who completed the work and ask them to return and make any necessary rectifications. If the contractor fails to return in a reasonable time frame refer to the section that relates to how to resolve your disputes;
- ❑ Any landscaping is to be carried out with due care and consideration for the other structures in the vicinity. Appropriately qualified contractor should carry out any excavations. Certain retaining walls may also require an Engineers certificate and /or building approval by council, seek councils' advice before commencing;
- ❑ Seek advice on planting of appropriate trees close to the building as tree roots can cause severe damage to footings, slabs and can affect plumbing;
- ❑ Perform minor maintenance on a regular basis such as cleaning gutters so that expensive repair costs will be minimised. Performing minor maintenance tasks such as cleaning gutters will also reduce fire hazards.

## 13 Useful links

### 13.1 Technical information or Advice:

#### [Standards Australia](#)

Tel: 1300 308 989

### 13.2 Contacts before you start your work

#### **Work Safe Tasmania**

Tel: 1300 366 322 (Inside Tasmania) / Tel: (03) 6233 7657 (Outside Tasmania)

Fax: (03) 6233 8338

Email: [wstinfo@justice.tas.gov.au](mailto:wstinfo@justice.tas.gov.au)

#### **Work Cover Tasmania**

Tel: 1300 776 572 (or 03 6233 5343 outside Tasmania) or by

Email: [workcover@justice.tas.gov.au](mailto:workcover@justice.tas.gov.au)

#### **Resource Management and Planning Appeals Tribunal Registry**

Web: <http://www.rmpat.tas.gov.au/contact>

Tel: 03 6299 6464

Email: [rmpat@justice.tas.gov.au](mailto:rmpat@justice.tas.gov.au)

#### [Dial before you dig](#)

Tel: 1100

#### **Consumer Affairs and Fair Trading**

Web: <http://www.consumer.tas.gov.au/>

Tel: 1300 65 44 99

Email: [consumer.affairs@justice.tas.gov.au](mailto:consumer.affairs@justice.tas.gov.au)

#### **Tasmania Heritage Register**

Web: <http://www.heritage.tas.gov.au/thr.html>

Tel: 03 6233 2037 / 1300 850 332 Cost of Local Call

Fax: 03 6233 3186

Email: [enquiries@heritage.tas.gov.au](mailto:enquiries@heritage.tas.gov.au)

#### **Legal Aid Commission of Tasmania**

Web:

<http://www.fire.tas.gov.au/userfiles/stuartp/file/Publications/FireSafetyInBuildings.pdf>

Tel: 1300 366 611

**Tas Fire Services**

Web: <http://www.fire.tas.gov.au/>

**Board of Architects Tasmania**

Tel: 03 62348188

Email: [registrar@architectsboardtas.org.au](mailto:registrar@architectsboardtas.org.au)

**[Australian Institute of Architects](#)**

Tel: 1800 770 617

Email: [contact.us@architecture.com.au](mailto:contact.us@architecture.com.au)

**[Australian Institute of Building](#)**

Tel: 1800 644 715

**[Housing Industry Association](#)**

Tel: (03) 6230 4600

**Engineers Australia Tasmania Division**

Royal Engineers Building

2 Davey Street

Hobart TAS 7000

Tel: 03 6234 2228

Fax: 03 6234 2216

Email: [Tasmania@EngineersAustralia.org.au](mailto:Tasmania@EngineersAustralia.org.au)

Hours: Monday - Friday 9:00am - 5:00pm

**Master Builders Tasmania**

Web: <http://www.mbatas.org.au/>

Tel: 03 6210 2000

Fax: 03 6210 2050

Email: [headoffice@mbatas.org.au](mailto:headoffice@mbatas.org.au)